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In the Supreme Court of the United States

OCTOBER TERM, 1968

JEREMIAH STAMLER, M.D. and YOLANDA F. HALL,
Plaintiffs-Appellants,

and

MILTON M. COHEN,
Intervening Plaintiff-Appellant,

vs.

HON. EDWIN E. WILLIS, et al.,
Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of Illinois, Eastern Division.

APPENDICES 4 AND 5 TO JURISDICTIONAL STATEMENT

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APPENDIX 4
JURISDICTIONAL STATEMENT

Introduction

This appendix is a selection of examples of Committee conduct and its impact upon citizens, taken from Committee hearings and reports, the Congressional Record and various newspapers and magazines. Neither time nor space permit the inclusion of all instances of the conduct illustrated below.

For the convenience of the Court, each hearing is referred to by a hearing number assigned according to the chronological list of hearings at the end of this appendix. ("H. ....., p. .....")

COMMITTEE WITNESSES

The Committee is aware of the testimony to be given by its own witnesses.

The 1965 Chicago hearings followed a customary pattern of public hearings in which Committee witnesses are called to identify as Communists or ex-Communists other persons who later appear in the same hearing pursuant to subpoena. The Committee frequently acknowledges that these so-called "friendly" witnesses have already given the information about which they testify, either in executive session or in a consultation with the Committee's staff. For example:

Washington D.C., 1966

"Mr. Nittle: At this point, Mr. Chairman, I would like to state for the record, and for the benefit of the committee, that the testimony that Mr. Luce is giving here today regarding Dr. Krebs was initially received in executive session and, after this testimony was received, we have notified, as I have just stated, Dr. Krebs to give him the opportunity to come in in private session, prior to the hearing today, to state whatever he had to say." (H. 170, p. 956.)

Minneapolis, 1964

"The Chairman: And you knew . . . [Meridel LeSueur and another] to be members of the Communist Party?

"Mr. Boehnke: Not Meridel LeSueur, I cannot positively identify her. . . ."

* * *

"Mr. Nittle: Mr. Boehnke, I would like to clarify your testimony with respect to Meridel LeSueur. In executive session before this committee on May 13, 1964, you testified in response to questions posed to you by me as follows:

" 'Question: Now, do you identify Meridel LeSueur as a member of the Communist Party?'

"And you replied, 'Yes.' I then asked:

" 'Question: And how do you make that identification?' . . ." (H. 163, pp. 1772, 1776.)

New York, 1957

"Mr. Solomon: When Mrs. Scotti [identified as a Committee investigator at p. 611 of the hearing] first gave me the name, I was sure I recognized it." (H. 111, p. 885.)

Pittsburgh, 1959

"Mr. Arens: Mr. Chairman, as the Chairman knows and as the witnesses of course know, these witnesses have been in contact with the staff over the course of many months. We have had, under oath, extensive interviews and consultations with these two witnesses on some subjects covered here today, but there are other matters which, as the Chairman knows, it would not be prudent at this time to develop with these witnesses in a public session." (H. 125, p. 344.)

For other references to meetings between the Committee staff and witnesses, see H. 16, pp. 282, 346; Pittsburgh Press, Feb. 21, 1950 (three day secret session with friendly witness); H. 111, pp. 636, 826; H. 117, pp. 1605, 1618; H. 121, p. 2092; H. 139, p. 1773; Ex. 50, p. 357 (Exec. session); H. 114, p. 895.

(See also H. 121, p. 2278; H. 114, pp. 1025-31; H. 115, pp. 1218-19; H. 105, p. 5610; H. 82, pp. 5097-98, 5181, 5301; H. 77, pp. 3218-38; H. 61, p. 4304.)

Many Committee witnesses (such as the two friendly witnesses who testified at the Chicago hearings in May, 1965) were paid undercover agents of the Federal Bureau of Investigation who have reported regularly to their superiors. (H. 105, pp. 5612, 5666; H. 82, p. 5562.)

Repeated use of Committee witnesses.

Many of the Committee's witnesses have been called to testify before the Committee repeatedly, often in different parts of the country.

Elizabeth Bentley testified in public session three times. (H. 19, pp. 503-62, 604, 725, 810; H. 18, pp. 1849-64; H. 51, pp. 2205-08.)

Matthew Cvetic testified in public session four times. (H. 34, pp. 1195-1352, 2365-68, 2365-72, 3007-72, 3143-67.)

John Lautner testified in public session on ten separate occasions between the 84th and 86th Congresses. (H. 107, pp. 6178, 6188, 6225-33, 6240, 6338-39; H. 111, pp. 650-51, 800; H. 120, pp. 1958-73; H. 113, pp. 2493-95, 2510-14.)

Barbara Hartle testified in public session four times between 1954 and 1960. (H. 107, pp. 6943, 6946-50, 6952-58, 7052, 7060; H. 137, pp. 1956-65, 1969-82, 2003-04; H. 59, pp. 6055-6125, 6127-33, 6629-50.)

In four days of testimony, *Mrs. Mildred Blauvelt,* a "red squad" agent of the New York City Police Force, supplied the Committee with the names and, in most cases, the addresses of 450 people. (H. 68, pp. 820-89.) She gave further testimony along the same lines in public session in the 1955 Los Angeles hearings. (H. 134, pp. 1526-37, 1668-76.)

Charles Regan testified in public session at least twice. (H. 101, p. 1560; H. 117, pp. 1604-30.)

Armando Penha testified in public session five times in the same year. H. 121, pp. 2090-2133, 2151-52, 2268-81, 2371-72, 2388-2403; H. 124, pp. 2609-28, 2693.)

Berenice Baldwin testified in public session in three hearings. (H. 55, pp. 2926-58; H. 69, pp. 1829-36; H. 82, pp. 5297-5328.)

The Committee's most frequent witness has been *Irving Fishman,* a customs agent who generally

brought with him a mail sack full of propaganda originating outside the United States. Over a five year period he testified in public session twelve times in ten cities. Each time his testimony was substantially the same. (H. 101, pp. 4694, 4718, 5422-37, 6044-68, 251-68, 1534-46, 2426-42; H. 121, pp. 2174-90; H. 122, pp. 2635-42; H. 123, pp. 2788-805; H. 134, pp. 1618-35; H. 137, pp. 1934-51.)

Listing of names by Committee witnesses.

Reading of the transcripts of the Committee's hearings reveals that a major portion of the public testimony of friendly witnesses serves to place in the public record the names of those persons whom the Committee has determined are "subversive" or "un-American." Names are listed with the sketchiest of descriptions. The Committee rarely inquires into the witness' knowledge of activities on the part of the persons named.

The testimony of Lola Belle Holmes at the hearing to which plaintiffs were subpoenaed is a typical example of listing alleged members of the Communist party. (Exhibit 50, pp. 351, 354, 357-60, 366, 368, 370, 373, 378-82). At one point, Miss Holmes discussed the 1959 Illinois state convention of the Communist Party (pp. 357-59):

> "Mr. Nittle: Miss Holmes, you have given us an exhibit, which you have identified as Holmes Exhibit No. 2, entitled 'convention preparations.' These various committees are named thereon and the persons who have been appointed to them. You received this from the State officials of the Party?
>
> * * *
>
> "Miss Holmes: Yes. . . .
>
> "Mr. Nittle: Now, do not the persons about whom I have questioned you appear named thereon as members of the resolutions committee, the convention arrangements committee, constitution and by-laws committee, and the publicity committee?

"Miss Holmes: They are here and I have seen them before and I know them very well. I just could not remember their names from years gone by.

• • •

"Mr. Nittle: Now in order to assist your memory and to expedite the hearing, you have furnished the Committee with the names of those persons whom you recollect as being in attendance at the State convention, is that right?

"Miss Holmes: Yes.

"Mr. Nittle: Now, you have before you a list, prepared by you, which identifies some of those who were in attendance; is that correct?

"Miss Holmes: Yes I have.

"Mr. Nittle: Now, will you tell the Committee, please, whether you know those persons who were in attendance at the State convention?

"Miss Holmes: I know all of them very well: Ben Friedlander, Mollie Gold, David Englestein—

"The Chairman: Start reading the list and go slow so that the reporter can get it.

• • •

"Miss Holmes: Mollie Gold, David Englestein, Fritzi Englestein, Dorothy Davies, James West, Mollie West, Samuel Kushner—

". . . Milton Cohen, L. Kimmel—

". . . Otto Wangerin as observer; Marcia Starr—

". . . Charles Sotis, Romolo Passarelli—

" . . . Flora Hall, Lou Diskin, Geraldine Lightfoot, Claude Lightfoot, Lester Wickstrom, Esther Eisenscher Wickstrom.

". . . Gertrude McBain, Fran Vivian, Joseph Mazeika—

". . . Daniel Queen, Arpad Balla . . . Lucius Armstrong—

". . . Charles Wilson and Joseph Zawadowski.

"There were others. I don't have their names at the moment." (Counsel's questions about spelling names omitted.)

In another hearing during executive interrogation of a friendly witness, Committee counsel read into the record the names of over 100 alleged Communists, asking the witness to identify those who were students at the University of California. The witness so identified two names. All the names read to him were printed when the executive session was released for publication. (H. 16, pp. 3508-9.)

In the hearings regarding Violations of State Department Travel Regulations and Pro-Castro Propaganda in the United States (1964), the Committee set out in the transcript the names of over 80 persons who had traveled to Cuba on United States passports along with certain information extracted from their passport applications. (H. 157, pp. 2190-2208.)

On occasion the Committee has had friendly witnesses place into the record names of persons who are not alleged to be members of the Communist Party but has made no distinction between them and other persons who were named. (H. 61, p. 4312.)

Payments To Committee Witnesses

During the debate on the Committee's resolution to certify intervening plaintiff Milton Cohen to the United States Attorney for contempt of Congress, it was revealed that witnesses testifying before the Committee had been paid by the Committee for their testimony. The relevant debate follows (Congressional Record (Daily Record) Oct. 18, 1966, p. 26393):

> "Mr. Hays: . . . Will the gentleman inform me as to whether the so-called witnesses were paid by the committee, or were under contract to the committee and paid in that fashion?
>
> "Mr. Weltner: To the best of my knowledge, information, and belief, there was no contract or remuneration with regard to these two witnesses [Lola Belle Holmes and Lucius Armstrong] in connection with their appearance in executive session. I state that on the best of my information, because I have no information to that point.
>
> • • •
>
> "Mr. Hays: The gentleman is aware, however, Mr. Speaker, that in times past the House Committee on Un-American Activities has paid witnesses, and has used the device of putting them under contract to keep their names from the public records to pay them?
>
> "Mr. Weltner: I have served in this body for only four years, and I have no knowledge of such a practice.
>
> "Mr. Hays: Mr. Speaker, I will tell the gentleman that I have signed contracts which I have been told as the chairman of the Contract Committee, was a device to keep these witnesses' names off the public payroll."

Two days later Rep. Hays inserted into the Congressional Record the following list of persons who had been under contract with the Committee during the previous five years and the amounts of their contracts (Daily Record, October 20, 1966, p. 85454) (this material does not appear in the

permanent edition of the Congressional Record):

Committee on Un-American activities contracts approved

87th CONG.

Name	Date Approved	Amount
Lillian E. Howard	May 3, 1961	$ 1,800.00
Maurice Malkin	June 8, 1961	400.00
Ruth Taylor Hunter	Feb. 1, 1962	1,800.00
Total		4,000.00

88th CONG.

1st SESS.

John Santo	Mar. 14, 1963	$ 2,500.00
George H. Lynch	July 17, 1963	1,000.00
Margaret Ann Kerr	do	1,800.00
John Lautner	Dec. 11, 1963	1,000.00
Herbert Romerstein	do	1,000.00
Total		7,300.00

2d SESS.

Margaret Ann Kerr	Aug. 24, 1964	$ 800.00
Andrew J. Berecz	Oct. 2, 1964	200.00
Charles S. Weatherholt	Do	378.59
George H. Lynch	Jan. 2, 1965	4,500.00
Total		5,878.59

89th CONG.

1st SESS.

John Sullivan	June 25, 1965	$ 3,600.00
William Hendrix	July 2, 1965	250.00
George H. Lynch	Aug. 20, 1965	3,000.00
John D. Sullivan	Sept. 2, 1965	3,600.00
Do	Dec. 28, 1965	3,600.00
Total		14,050.00

2d SESS.

Phillip Abbott Luce	Aug. 22, 1966	$ 1,000.00
George H. Lynch	Oct. 11, 1966	3,000.00
Total		4,000.00

TREATMENT OF UNFRIENDLY WITNESSES

The Committee often accuses unfriendly witnesses, rather than attempting to elicit information from them.

The Committee routinely asks witnesses whether they were members of the Communist Party. The form and substance of these and similar questions, often highly argumentative, make it clear that the function of these questions is not to obtain information, but rather to expose and accuse. As the Court said in *People* v. *Mullings,* 83 Cal. 138, 23 Pac. 229, 231-2 (1890), "It is quite evident that the questions and not the answers were what the [questioner] thought important."

Lansing, 1954

"Mr. Scherer: He was a fellow student of yours and a fellow Communist of yours and attended the meeting at Prague—

"Mr. Sharp: Are you making an accusation against me on something that hasn't been proved by this Committee?

"Mr. Scherer: Is my accusation that you were a member of the Communist Party false, sir?

"Mr. Sharp: You are not a court. You have no right to make any accusation.

"Mr. Scherer: I am asking you whether the accusation that you say I am making is true or false.

"Mr. Sharp: I understand, but you continue to be in violation of your oath of office by destroying the separation of powers and acting as a court." (H. 82, p. 5410.)

Detroit, 1954

"Mr. Clardy: I hope you appreciate the fact that this committee is giving you at the very earliest possible moment after you were identified [as a Communist] an opportunity to speak out in your own defense. I hope you appreciate that, and I would like to ask you now whether or not the testimony given by the previous witness concerning you was true or false?

"Mr. Chrin: Under the fifth amendment I respectfully refuse to answer that question on the grounds that an answer might tend to incriminate me." (H. 82, p. 5203.)

St. Louis, 1956

"Mr. Scherer: The fact is you did not get near Greece, did you?

"Mrs. Pappademos: I refuse to answer that question on the fifth amendment.

"Mr. Scherer: You swore at the time you made this application for a passport that you were going to visit your husband's relatives in Greece, did you not?

"Mrs. Pappademos: I reassert my privilege under the fifth amendment.

"Mr. Scherer: And when you so swore you lied to the State Department, did you not?

"Mrs. Pappademos: I reassert my privilege under the fifth amendment.

"Mr. Scherer: You obtained this passport from the government of the United States by fraud?

"Mrs. Pappademos: I reassert my privilege period." (H. 100, p. 5054.)

New Haven, 1956

"Mr. Arens: Why do you not then stand up like a red-blooded American and deny the accusation made by Mr. Kent that you have been or are a member of the Communist conspiracy?

"Mr. Gilden: I have already said that this is a degrading experience, and I will exercise my rights under the first and fifth amendments." (H. 105, p. 5600.)

* * *

"Mr. Arens: Why do you not stand up like a red-blooded American and deny that you are a member of the Communist Party while you are under oath?

"Mr. Dichter? Are you asking a question?

"Mr. Arens: Yes, sir.

"Mr. Dichter: I invoke the fifth." (H. 105, p. 5711.)

Baltimore, 1957

"Mr. Arens: Then stand up like a red-blooded American and deny that you are a member of the Communist Party. [Applause.]

"Mr. Willis: We will not have any such outburst in the courtroom either favorable or adverse to any witness. This must be enforced.

"Mr. Arens: Will you kindly answer the question?

"Mr. Nichol: I think that my service in the Army speaks for itself as regards my Americanism and conduct as a citizen.

"I respectfully decline, however, under the circumstances surrounding this whole hearing, and so forth, under the first and fifth amendments to answer that question." (H. 114, p. 1068.)

New Haven, 1957

"Mr. Arens: Have you ever been a member of the State executive board of the Communist Party?

"Mr. Gruber: Same answer.

"Mr. Arens: I put it to you as a fact and ask you to affirm or deny the fact, that you were a member of the State executive board of the Communist Party in the State of Connecticut.

"Mr. Gruber: Same answer." (H. 105, p. 5766.)

San Francisco, 1957

"Mr. Scherer: I ask you as a matter of fact and ask you to affirm or deny that while you were a member of the armed forces you wrote a letter in time of war to the Russian Government offering your services?

"Mr. Nissen: I refuse to answer that, sir." (H. 115, p. 1208.)

"Mr. Scherer: Your chief duty as a Communist functionary was to see that the Farmer's Union was infiltrated as far as possible with members of the Communist Party; is that not so?

"Mr. Cantor: You are making assertions, sir.

"Mr. Scherer: I am making an assertion and is that assertion incorrect?"

"Mr. Cantor: I will not cooperate with you in this type of assertion, and therefore I will not answer your question. I will decline on the grounds that I have given." (H. 123, p. 2863.)

Newark, 1958

"Mr. Arens: Why don't you stand up like a red-blooded American, and deny that you are a Communist?

"Mr. Leavy: Because, as a red-blooded American I am going to uphold the Constitution of the United States including the first and the fifth amendments." (H. 123, p. 2811.)

Boston, 1958

"Mr. Arens: Then would you kindly stand up like a red-blooded American and deny the identification of yourself as a member of the Communist Party conspiracy while you were under oath?

"Mr. Rex: I will not do that. (H. 121, p. 2257.)

• • •

"Mr. Doyle: Yes. You said you didn't know of an informer who had told the truth. Now he is under oath and subject to prosecution for perjury. So are you, if perjury is proven on your behalf.

"Now, I will ask you again: Here is an open and shut opportunity for you to either affirm or deny that he was telling the truth when he identified you as a Communist. Why don't you take advantage of it?

"Mr. Schirmer: I don't wish to provide a link in a chain of evidence that might be used against me.

"Mr. Doyle: It is probably because the gentleman who identified you as a Commie you know full well was telling the truth. That is the way I appraised his testimony. (H. 121, p. 2266.)

Chicago, 1959

"Mr. Moulder: . . . you have been accused (identified) here by the witness, Mr. Nelson. . . .

"Now do you wish to deny or affirm the statement made by Mr. Nelson in his testimony concerning your Communist activities?" [Witness declined to answer] (H. 128, p. 538.)

Chicago, 1965

"Mr. Nittle: Miss Hayes, have you ever at any time during your period of membership in the Communist Party known Dr. Jeremiah Stamler to be a member of the Communist Party?

"Mr. Wolf: I object to the question. There has been no evidence to that effect. I object to this whole line of questions, if the chairman please. These questions are designed not to elicit any answers. It is completely clear that the witness is not going to answer any of these questions. The questions are designed only for the sake of the questioning.

"The Chairman: It would be the wish and fervent hope of the Chair that the witness might see some light after a while and give us information within her knowledge. We are only receiving information within her knowledge, which we believe she could lay on the line.

"Now with reference to naming names, those people will have ample opportunity to refute under oath the things that have been said or brought out in the course of the examination." (Ex. 50, p. 512.)

* * *

"The Chairman: Yes. Miss Holmes, under the pains and penalties of perjury, under oath, did make that statement. Now it would be interesting if your client, under the same pains and penalties, would deny so that you would have a sharp issue for referring the record to the Department of Justice. Obviously there would be a flat contradiction and probably some action for perjury. So I say that would be a splendid opportunity for her to confront her accuser, that we have been talking about so much here and hearing about so much." (Ex. 50, p. 514.)

* * *

"Mr. Nittle: Now, Mrs. Jennings, in the light of our information that you had had an initial break with the Communist Party in 1961 because of a dispute with another party member, we should like to inquire whether you have, in fact, had further contact with the Communist Party or cooperated with it in any way since that time?

"Mrs. Langford: May I object to the form of the question, it presupposes she was a Communist Party member. That is one of the issues in this hearing, I believe.

"Mr. Nittle: If there is any factual content in that question which the witness finds to be untrue, she now has the opportunity under oath to state the fact." (Ex. 50, p. 527.)

* * *

"The Chairman: Well, before I rule, let me say that I reject the last part of your statement — the 'innuendoes' and references to 'defamation' of citizens of the United States. Here is a grand opportunity for your client, Mrs. Hall, and later Dr. Stamler, under pains and penalties of perjury by witnesses who have testified, to deny, explain, confirm, affirm, reject, expose, lambaste — I use every word you can about the testimony of those witnesses." (Ex. 50, p. 540.)

* * *

"Mr. Jenner: Mr. Chairman, I rose to inquire that I understand that you, Mr. Chairman, and the committee denied my request to cross-examine the previous witness.

"The Chairman: Yes, I have ruled on that. And let it be shown that I also said here is a magnificent opportunity on the part of Dr. Stamler, while he is under oath, to deny or affirm that he is, or has ever been, a member of the Communist Party and all those things said about him." (Ex. 50, p. 500.)

* * *

For other similar accusatory questions see H. 82, p. 5488; H. 101, p. 1556; H. 105, pp. 5742, 5766; H. 107, pp. 1559-63; H. 114, pp. 938, 942-43, 990, 1002; H. 122, pp. 2718-19; H. 125, pp. 350-55, 388; H. 142, p. 112.

The Committee already has the answers to defamatory questions it puts to unfriendly witnesses.

As in the May, 1965, Chicago hearings, the Committee frequently puts questions to unfriendly witnesses indicating that the Committee already has the information it purportedly seeks, whether from an informer, FBI agent, testimony in the same or another hearing, or otherwise.

For example:

> "Mr. Tavenner: Mr. Tyre, was this question propounded to you by Mr. Wheeler, investigator for the committee, on the occasion mentioned, and at the place mentioned, that is, at room 401 of the Taft Building, on December 14, 1965:
>
> Mr. Tyre, a witness, appeared before the committee in executive session during the Hollywood hearings, and testified under oath to the committee that he was a member of the Communist Party, and that he was a lawyer, and assigned to the lawyers' branch in Los Angeles, and during the course of his testimony he identified you as a fellow member of the party. Do you wish to confirm or deny that?
>
> to which question you replied:
>
> That is correct.
>
> "Was that question ever asked you, and was that answer made by you?
>
> "Mr. Tyre: I decline to answer on the grounds previously stated, Mr. Tavenner." (H. 52, p. 2590.)

Counsel continued reading portions of the testimony of Mr. Tyre in consultation with Mr. Wheeler for twelve pages of transcript despite the witness' continued declinations. Following the witness' appearance, Mr. Wheeler, the committee investigator, was sworn and introduced the entire transcript of his consultation with Tyre into the record. (H. 52, pp. 2606-15.)

Detroit, 1952

"Mr. Tavenner: The Committee, in the course of its investigation, has learned also that your consent was solicited to write a letter to Governor Dewey of New York requesting a pardon for Morris Schappes. Were you requested to write such a letter?

"Reverend Hill: On advice of counsel, I refuse to answer the question under the fifth amendment." (H. 55, p. 2826.)

Lansing, 1954

"Mr. Moulder: Are you acquainted with our investigator, Mr. Don Appell, who sits at the table beside Mr. Tavenner?

"Dr. Nickerson: I met him in my office in Ann Arbor.

"Mr. Moulder: While you were in your office, and when you met him there, did you have a discussion concerning your Communist Party membership while employed at the University in Utah?

"Dr. Nickerson: I decline to answer that question on the basis of the previously stated grounds.

* * *

"Mr. Moulder: Well, did he ask you whether or not you were a member or had been a member of the Communist Party while serving in your employment at the University of Utah?

* * *

"Dr. Nickerson: He did, yes.

"Mr. Moulder: Do you recall what your answer was to his question?

* * *

"Dr. Nickerson: I recall in a very general way. It was, shall we say, an unfriendly discussion. I don't recall the details. I recall in a general way.

"Mr. Moulder: Didn't you at that time admit that you were or had been, rather, a member of the Communist Party while employed as professor at the University of Utah?

* * *

"Dr. Nickerson: I decline to answer that on the previously stated grounds." (H. 82, pp. 5339-40.)

* * *

"Mr. Davis: . . . I am willing to give all of my notes that I have on my person here if you in exchange will give all of the notes you have on me.

"Mr. Clardy: I have already explained to you that you are going to discover a great many things that we know before this proceeding is over. It will extend well into the afternoon." (H. 82, p. 5463.)

Charlotte, 1956

"Mr. Arens: Were you present when Mr. Charles Childs was initiated in the Communist Party? * * *

"Mr. Feldman: Same answer.

"Mr. Arens: You helped induct him in the Communist Party; did you not?

"Mr. Feldman: I offer the same answer.

"Mr. Arens: You did not know when you inducted him into the Communist Party that you were inducting in the Communist Party an FBI agent, did you?

* * *

"Mr. Feldman: I offer the same answer.

"Mr. Arens: To that extent the committee is in your debt for inducting into the Communist Party an FBI agent." (H. 96, p. 3598.)

Pittsburgh, 1959

"Mr. Arens: Mr. Steinberg, this morning Mr. and Mrs. Hamp Golden, testified under oath before this committee that for a period of time while they were members of the Communist Party at the behest of the Federal Bureau of Investigation, to get information to help protect this country against this conspiracy, they knew you, sir, as a member of the Communist Party. We would like to give you an opportunity now, while you are under oath, to deny that assertion. Do you care to avail yourself of that opportunity?

"Mr. Steinberg: First and fifth." (H. 125, p. 353.)

Washington, D.C., 1960

"Mr. Arens: You told me yesterday in my office that you had recently broken from the Communist Party, did you not?

"Mr. Thompson: I refuse to answer under the fifth amendment.

"Mr. Scherer: Were you threatened in any way since you talked to Mr. Arens yesterday?

"Mr. Thompson: I refuse to answer under the fifth amendment.

"Mr. Scherer: Did you tell anyone who is a member of the Communist Party that you had talked with Mr. Arens about your membership in the Communist Party, and that you had planned to testify? Did you tell anyone?

"Mr. Thompson: I refuse to answer under the fifth amendment.

"Mr. Arens: I urged you yesterday to appear today and if you have broken from the Communist Party to testify like a redblooded American about this conspiracy, testify for your Government respecting the operations and machinations of this conspiratorial force which would destroy this Government and freedom on American soil, did I not?

"Mr. Thompson: I refuse to answer under the fifth amendment." (H. 139, p. 1826.)

Washington, D.C., 1962

"Mr. Nittle: Yes; there are all kinds of poison in this world, and for that reason, I must ask you a question which will follow.

"In an appearance before the U.S. Senate Investigations Subcommittee, Committee on Expenditures in the Executive Departments, on Friday, July 30, 1948, William W. Remington identified you as his mother-in-law and as a Communist. He testified that you once held a position as a director of the Hessian Hills School in Croton and that you were forced out of that position when your Communist affiliations were revealed.

"He indicated that a person named Alvin Warren, who had fought in the Abraham Lincoln Brigade in Spain, came to live at your home and completed your conversion in which Joseph North, the editor of the Communist *New Masses,* now a contributor to *The Worker,* participated, and who had been brought to your home by Alvin Warren about the year 1940.

"Was there any inaccuracy in the testimony of William W. Remington which I have summarized?

"Miss Moos: I stand on my prior claim." (H. 155, p.2157.)

Washington, D.C., 1962

"Mr. Nittle: Did you not testify before the Special Committee on Un-American Activities in Washington on October 6, 1939?

"Mr. Chancey: I remember having been at such a committee. I haven't the faintest idea what took place there. It was a long, long time ago.

"Mr. Nittle: Were you asked this question at that hearing by the chairman:

> Suppose we were at war with Russia, what would be your position as between the United States and Russia? Would you favor United States or Russia?

"And did you reply to that inquiry:

> I would wait for such a thing to happen." (H. 153, p. 1122.)

* * *

Following refusal of Mr. William Henry Cooper to answer questions about Communist Party membership (see pp. 91-93 below), the following occurred:

"Mr. Wetterman: I am an investigator with the Committee on Un-American Activities.

"Mr. Nittle: And you have been employed in that capacity for what period of time?

"Mr. Wetterman: Since December 5, 1960.

"Mr. Nittle: You were in the Caucus Room on Monday, June 4, 1962, at which time a person named William Henry Cooper was called to testify??

"Mr. Wetterman: That is correct.

"Mr. Nittle: Did you have occasion to identify him prior to his appearance in the Caucus Room on that day?

"Mr. Wetteman: Yes. We had testimony from Mrs. Julia Brown, and also statements to me personally from Mr. Cooper during a trip to Cleveland, the week of April 2, 1962.

"Mr. Nittle: Prior to April 2, 1962, did you know William Henry Cooper?

"Mr. Wetterman: No, I did not.

"Mr. Nittle: Will you tell us when you first met him and what were the circumstances?

"Mr. Wetterman: It was during the week of April 2, 1962. I was in Cleveland, Ohio, on routine business for the committee and had decided to call on the William Cooper family, basing the call on information that Mr. Cooper might possibly be a cooperative witness for the committee. That afternoon I spoke with Mrs. Cooper and questioned her with regard to Communist activities in the Cleveland area.

Mr. Nittle: Was her husband at home?

"Mr. Wetterman: No, he was not at home. He was at work during the day. Mrs. Cooper stated that she had been a member of the Progressive Party. On further questioning with regard to Communist Party activities, she appeared rather hazy and sort of reluctant to make any comments. I returned later that evening when Mr. Cooper was home and asked him similar questions of his party activities, which he initially denied. On the presentation of various evidence and following with questions on pertinent points of activity he had been engaged in, he finally admitted that he had been a member of the Communist Party from 1944 until the mid-1950's.

"Mr. Nittle: When you say he 'finally admitted' Communist Party membership, will you state for the record what the conversation was as accurately as you can state it?

"Mr. Wetterman: Well, I had a number of confidential reports of Mr. Cooper's activities, and I informed him the committee had received testimony that he had been a member of the Communist Party. Upon presenting him with that information he finally admitted that he became a member in 1944, had a party membership card in the late forties, and that he had gotten out of the party around 1955 or 1956 at the time of the Smith Act trials in Cleveland. I also asked Mr. Cooper at that time if he had knowledge of Joe Hill and Albert Young and if he had been active in Young's political campaign. He stated that he had never heard of them before.

"Upon his admission of party membership, he did state that Frieda Katz had come to his home in the middle fifties when he was attempting to get out of the party and had told him that he should remain in the party because it was an organization fighting for the civil rights of Negroes and it was important he remain a member. He stated to me that he began to realize he was being used by the Communist Party and that it was not for the civil rights of the Negro people and, hence, his gradual disassociation. I told Mr. Cooper that it might be necessary for him to come to Washington and so testify and he finally agreed to do so, though rather reluctantly.

"My next contact with Mr. Cooper was on May 7, 1962, when I called at the Cooper residence, again in the afternoon, and Mr. Cooper was not there. I talked to some extent with Mrs. Cooper in a general way, and it so happened that her daughter, Winnie Cruise, was there. I asked Mrs. Cooper if I could talk with Winnie Cruise and would she leave us alone. I asked Winnie Cruise how long it had been since she left the Communist Party. She said that she had left the party in the late forties or early fifties; she didn't recall.

"Mr. Johansen: That is she herself, the daughter?

"Mr. Wetterman: She, Winnie Cruise, the daughter. I asked her if it was not a fact that she attended a Communist Party school in New York City and she

said yes, she had, but it had been so long ago she didn't have too much recollection. She said that she had been quite ill of health and, as a result, was never a functionary of the party. Those are her exact words.

"She stated that the party only wanted people who were healthy and could work day and night for the cause and, therefore, she was not accepted as a functionary of the party and gradually withdrew from it.

"I returned that evening, and Mr. Cooper was there. I told him that we would like to have him in Washington to testify and all that was necessary for him to do was to tell the complete truth the way he had told it to me. He agreed to do so and then he volunteered the information to me that he had campaigned for Joe Hill and Albert Young. I said to him, "Well, Mr. Cooper, the last time I was at your home you denied that you even knew them," and he said, "Oh, yes, I campaigned for them," and he also told me that he knew them to be members of the Communist Party. He stated he knew Dave Katz, Frieda Katz, the Krchmareks, and other lesser leaders of the Communist Party and that he would cooperate with our committee in giving such information. I told Mr. Cooper I would arrange for his transportation and would meet him at the airport on Sunday, June 3. Arrangements were made. I was at the airport on June 3. He did not arrive on the flight as scheduled.

"Checking with the airlines I discovered he had cancelled his reservation and arrived on a 9:30 flight the day prior. I did not see Mr. Cooper until he entered the hearing room on Monday, June 4." (H. 153, pp. 1159-60.)

Minneapolis, 1964

"Mr. Nittle: Now I want to pose another question, which I don't think you can claim to be an innuendo.

"In testimony before the Subversive Activities Control Board on January 13, 1954, Barbara Louise Roehrich, who was identified by Mrs. Gordienko as a

member of her cell at the University of Minnesota, stated, testified that she executed an application for membership in the Communist Party during February of 1949. She further testified that Rachel Tilsen was the chairman of the University Village Club of the Minneapolis Communist Party and Minnesota State treasurer of the Labor Youth League and that she, Rachel Tilsen, took her application for membership in the Communist Party during February of 1949. Mrs. Roehrich also testified that Kenneth Tilsen and several others asked her to joint the Communist Party. Now, did you during February of 1949, or at any time during the year 1949, ask Barbara Roehrich to join the Communist Party?

"Mr. Tilsen: I respectfully decline to answer that question on all of the grounds already urged." (H. 163, p. 1846.)

The Committee's questions often relate to events alleged to have occurred many years before the hearing.

The 1965 Chicago hearing of the Committee was replete with instances in which Committee questions to unfriendly witnesses concerned events alleged to have occurred 15, 20 or even 30 years earlier and without ascertainable relation to the present.

Chicago, 1965

"Mr. Nittle: Prior to taking up your residence in Chicago in 1949, were you a member of a Communist cell or group in San Francisco?" (Ex. 50, p. 531.) (More than 16 years earlier.)

"Mr. Nittle: Were you in attendance at that meeting of the Communist Party held in the home of Willie Mae Smith on December 16, 1949 at 333 East 60th Street in Chicago?" (Ex. 50, p. 534.) (15 years earlier.)

"Mr. Nittle: Did you not, in fact, attend and be employed at Commonwealth College, in Mena, Arkansas, during the period 1930 to 1933?" (Ex. 50, p. 421.) (32 to 35 years earlier.)

"Mr. Nittle: Miss Hayes, according to the information of the committee, in May of 1930 you made application for a United States passport, at which time you stated that you intended to travel in Denmark, Norway, Sweden, Germany, France, and England. Based upon this application, you were issued a passport on May 30, 1930. Is that correct?" (Ex. 50, p. 500.) (35 years earlier.)

"Mr. Nittle: . . . However, it was not until May, 1949 that the first national and constitutional convention of the Congress of American Women was held in New York City — approximately 1 year prior to the invasion of South Korea by Communist North Korea.

"It is our information that you were in attendance in New York City at the first national and constitutional convention of the Congress of American Women. Were you, in fact, in attendance at that convention?" (Ex. 50, p. 505.) (16 years earlier.)

"Mr. Nittle: Miss Hayes, while a social worker, have you been under the discipline of the Communist Party?

"Miss Hayes: I decline to answer the question on the basis of all the grounds and reasons previously stated.

"Mr. Nittle: Were you in 1941 a social worker in Massachusetts?

"Miss Hayes: I decline to answer the question on the basis of all the grounds and reasons previously stated.

"Mr. Nittle: Miss Hayes, I have before me a copy of a magazine titled *Social Work Today* dated February 1952. At page 52 your name is listed, under the column for the State of Massachusetts, as being one of the 1941 "*Social Work Today* Cooperators," and it is noted that those listed men and women —

have made it possible for *Social Work Today* to strengthen and prepare itself for the supreme test of today.

"I hand you this exhibit marked for identification as "Hayes Exhibit No. 4."

"Are you the Dorothy M. Hayes noted as a 1941 cooperator?

"Mr. Weltner: Counsel will rephrase the question.

"Mr. Nittle: The committee has just called to my attention that I had stated that article as being dated 1952. I correct that. That is the February 1942 issue. As I previously stated a moment ago, Are you listed in that issue as a 1941 "Cooperator"?

"Miss Hayes: That is your question, Counsel?

"Mr. Nittle: Yes.

"Miss Hayes: I decline to answer the question on the basis of all the grounds and reasons previously stated."

(Document marked "Hayes Exhibit No. 4" and retained in committee files.) (Ex. 50, p. 506.) (24 years earlier.)

"Mr. Nittle: Now, Mr. Miller, the pending question is whether you knew Yolanda Hall to be a member of the Illinois-Indiana regional board of The American Youth for Democracy at the time you served upon that board in October, 1945?" (Ex. 50, p. 481.) (20 years earlier.)

This pattern is repeated throughout the 1965 Chicago hearing. In the study made by Professor Zeisël (Appendix 5), a count was made of all questions concerning alleged misdeeds directed to the unfriendly witnesses in that hearing; in almost half the cases (47%) the questions clearly related to alleged misdeeds which occurred more than 5 years before.

It is estimated that of all "misdeed questions" asked by the Committee to unfriendly witnesses since 1946, fully one-quarter related to events which allegedly occurred over 5 years before. (See Zeisel study, Appendix 5, Table 7.). Some few examples are:

New Haven, 1956

"Mr. Arens: Do you have a recollection of signing a petition to free Earl Browder back in 1941?" (H. 105, p. 5644.) (15 years earlier.)

"Mr. Arens: I put it to you as a fact and ask you to affirm or deny it as a fact that in 1937, when you took the oath of allegiance you were a member of the Communist Party.

"If it is not so, deny it under oath." (H. 105, p. 5620.) (19 years earlier.)

* * *

Washington, D.C., 1961

"Mr. Tavenner: When was this picnic?

"Mr. Scott: I'd forgotten all about it until now. I couldn't say definitely when it was.

"Mr. Tavenner: That was between 1945 and 1949, was it not?

"Mr. Scott: I think so, some place in there. I don't even remember the year it was.

"Mr. Tavenner: Who were some of the more prominent Communists that you recall attended?" (H. 174, p. 1270.) (12-16 years earlier.)

Washington, D.C., 1962

"Mr. Nittle: You stated that you have attended Vassar College. Would you tell us the years during which you were in attendance there?

"Mrs. Mackenzie: I graduated in 1937. I was there for the previous 4 years.

"Mr. Nittle: During the course of your attendance at Vassar College, were you not the editor of a student publication designated as *Miscellany News?*

(Witness conferred with counsel.)

"Mrs. Mackenzie: I decline to answer that question. It is irrelevant. That was back in the 1930's. It is irrelevant because—I have a right to become an editor or a writer of any publication I see fit.

"Mr. Nittle: We do not question that at all.

"Mrs. Mackenzie: In privacy.

"Mr. Nittle: The American Student Union, Mrs. Mackenzie, was a Communist front which was created

to win masses of student youth to Communist Party objectives. The investigations of this committee and other governmental organizations revealed that to have been the objective of the American Student Union. Chapters of this organization were set up on the campuses of numerous colleges and universities, including Vassar College.

"Were you a member of the American Student Union while you were in attendance at Vassar College?" (H. 155, p. 2149) (25 years earlier.)

• • •

"Mr. Nittle: Mrs. Posner, it is the Committee's information that you were employed as a teacher since 1922 in the New York City public school system, that you resigned as a teacher on September 4, 1952.

• • •

"Were you a member of the Communist Party fraction of public school teachers during the course of your employment at the DeWitt Clinton High School in New York City?" (H. 155, p. 2084.) (10 to 40 years earlier.)

• • •

"Mr. Nittle: Mrs. Hoffman, it is the Committee's information that in the year 1944 you were a member of the Communist Party in the Brooklyn area. Were you, in 1944, a member of the Communist Party?" (H. 155, p. 2109.) (18 years earlier.)

Cleveland, 1962

"Mr. Nittle: Our investigation discloses that at a meeting in the Music Hall, Cleveland, Ohio, on April 30, 1949, it was announced that you were among the largest contributors to the Progressive Party. Was that announcement correct? (H. 153, p. 1147.) (13 years earlier.)

• • •

"Mr. Nittle: You were also in attendance at a concert sponsored by the Progressive Party at Music Hall on March 20, 1950, which featured Paul Robeson, were you not?" (H. 153, p. 1147.) (12 years earlier.)

• • •

"Mr. Nittle: In 1945, did you sign a Communist Party nominating petition on behalf of Benjamin J. Davis for the office of councilman of the City of New York in the Borough of Manhattan?" (H. 153, p. 1146.) (17 years earlier.)

Washington, D.C., 1962

"Mr. Nittle: I state as a fact, Mrs. Goodman, that in Birmingham, Alabama in 1932, at a time when you were about 22 years of age, you became a member of the Communist Party, and that you were assigned Communist Party Card Number 6580. Is that true and correct?" (H. 153, p. 1071.) (30 years earlier.)

Washington, D.C., 1963

"Mr. Nittle: Did you not also serve in the International Brigade in the Spanish civil war during the years 1937 and 1938?" (H. 158, p. 640.) (25 years earlier.)

Minneapolis, 1964

"Mr. Nittle: I hand you a copy of a January 1943 open letter to the Congress of the United States titled "A Message to the House of Representatives," which is marked for identification as "McDonald Exhibit No. 1."

"As appears upon the exhibit, this letter was sponsored by the National Federation for Constitutional Liberties and opposed the renewal of the Special Committee on Un-American Activities in 1943. I direct your attention to the fourth page of the exhibit, where your name, 'Claude McDonald,' identified as financial secretary, Local 1152, United Electrical, Radio & Machine Workers of America, Minneapolis, Minnesota, is among others listed as a signer of this message.

"Did you authorize your name to be used as a sponsor of this message?

* * *

"Mr. Nittle: Were you acting under Communist Party directives in 1943 at the time you opposed the renewal of the Special Committee on Un-American Activities?" (H. 163, pp. 1784-85.) (21 years earlier.)

See also: H. 103, p. 5180 (20 years earlier); H. 115, p. 1186 (20 years), 1192 (15 years); H. 127, p. 754 (32 years); H. 128, p. 596 (23 years); H. 137, p. 2141 (24 years); H. 146, p. 483 (Exhibit entered—20 years earlier); H. 154, p. 1892-4 (Exhibit entered—25 years earlier); H. 155, p. 2157 (22 years earlier); H. 157, pp. 312 (26 years), 521 (16 years), 551 (20 years); H. 163, pp. 1802 (19 years), 1836 (14 years), 1839 (14 years), 1864 (30 years), 1921 (16 years.)

The Committee often demeans unfriendly witnesses.

One of the most striking aspects of the Committee's conduct revealed by the transcripts of its hearings is its repeated subjection of subpoenaed witnesses to humiliation, harassment, and abuse, especially by creating an invidious contrast between views attributed to witnesses by the Committee, on the one hand, and the Committee's political orthodoxy on the other. The forms of harassment used by the Committee are so varied as to defy precise categorization. Many appear in other parts of this Appendix. Examples follow:

Washington, D. C., 1950

"Mr. Wood: Do you believe that the Un-American Activities Committee is a greater menace to our free institutions than the Communists are?" (H. 16, p. 377.)

Detroit, 1952

"Mr. Jackson: Mr. Chairman, I think in the light of the witness' attitude toward the questions of counsel, that there certainly is no reason for asking any further questions. It is quite obvious that he is not going to answer any questions having to do with his Communist Party activities, which are alleged to have taken place within and outside of the Communist Party.

"I do think that I should like to make a very brief statement: Men who have the high calling of the

ministry, men who are dedicated to God and to His works are today rotting in prison cells in every country in the Communist orbit. Their Bibles are rotting beside them. It is bad enough in these days when we are waging a war against communism, when our men are dying by the thousands, that any man can commit the treason of membership in the Communist Party or of lending aid, or comfort or assistance to the Communist Party. To do so stamps them as enemies of the United States of America.

"For a minister, for a man of the cloth, to aid or comfort or endorse or lend his assistance to Communists or to the Communist Party, is to compound the offense by including God Almighty in his treason. That is all I have to say." (H. 55, p. 2832.)

Michigan, 1954

"Mr. Scherer: Witness, you made application for a passport in June 1950, did you not?

"Mr. Sharp: My name is Mr. Sharp. I would urge you to call me by that instead of 'Witness.'

"Mr. Scherer: I can hardly use the appellation 'Mr.' in view of your conduct, so I call you 'Witness' as I am allowed to do." (H. 82, p. 5412.)

* * *

"Mr. Clardy: Why I ask is that in the prior testimony you reiterated, as we have had said thousands of times before us, that you were not going to state anything about your political beliefs and so on. This committee, the other investigating committees, and your Government as a whole, does not regard the Communist Party as a political party. We regard it as nothing less than a criminal conspiracy of a group of people taking orders from a foreign government dedicated to the proposition of destroying this Nation by force and violence, and if you have in mind that we are going to take any other attitude, you are mistaken, but if you use the word 'political' from here on out, I want to be sure that you are thinking of the Communist Party and denominating it as a political party, so I come back to my question. Is that your

attitude toward the Communist Party? That is regardless of what you are, whether you are one or not, I am just asking you for your belief.

"Mr. Falk: Your statements on this question are somewhat confusing to me because at one time you come out and say that the Communist Party is a legal political party. It hasn't been outlawed yet or something to that effect." (H. 82, pp. 5581-82.)

Seattle, 1954

"Mr. Clardy: You have been directed to answer the question. Now proceed to do so and desist from the party line tactics, Witness." (H. 59, p. 6280.)

Charlotte, 1956

"Mr. Myers [witness]: If the Federal Government has the right to force me to say if I am a Communist or not, the Federal Government also could assume the right to question me as to whether I am a Democrat or Republican.

"The Chairman: We have that right. Nobody has ever questioned it." (H. 96, p. 3527.)

• • •

"Mr. Arens: Where was your courage and patriotism when you joined with others urging the withdrawal of the United States troops from Korea while they were engaged in mortal combat with the North Korean Communists?

"Mr. McGirt: The same answer, sir." (H. 96, p. 3589.)

• • •

"Mr. Arens: Tell us all of the organizations you belong to which could not, by the wildest stretch of the imagination, be called Communist controlled or dominated or front organizations.

"Mr. Van Camp: I am afraid I will have to refuse to answer. (H. 96, p. 3625.)

"Mr. Arens: Would you want that child to grow up in a republic permeated and threatened by an international godless conspiracy?

(Witness consulted her counsel.)

"Mrs. Robertson: I am happy that my child is an American, just as I am happy that I am an American. However, I am afraid that I will have to refuse to answer under the first and fifth amendments.

"Mr. Arens: Would you want to serve your Nation by giving information respecting a conspiracy so that child of yours can grow up in a free society, worship God as he pleases, speak freely, have the rights accorded him under the Constitution?

(Witness consulted her counsel.)

"Mrs. Robertson: My answer to this is the same as the previous." (H. 96, p. 3633.)

Washington, D.C. 1956

In the 1956 investigation of the Save Our Sons Committee, Rep. Kearney commented on the testimony of a witness who had consistently answered questions by stating, "I refuse to answer under the Fifth Amendment" (H. 102, p. 5122):

"Mr. Chairman, I would like to make an observation at this point. From the testimony of the witness, I think the answers she has given are as phony as a three-dollar bill."

New York, 1957

"Mr. Doyle: * * * The only reference in the introduction, apparently made by a man with your name, is to revolutionary songs from foreign countries, emphasizing the Soviet Union and Germany. There isn't a single American song called to attention in that introduction. I do not know why. Well, I can see why. I can see why someone with a clever thought used the title 'America Sings' and then put nothing in there except Russian and German revolutionary songs. There is not an American song called to attention. And yet they call it America Sings. And that is

the kind of Soviet propaganda that is infiltrating our country.

"I have one thing more, Mr. Robinson. Can you show me in your writings, and I ask you in good faith, one single song upholding and promoting loyalty to the Stars and Stripes, to the American flag?

"Mr. Robinson: Everything I have written does this.

"Mr. Doyle: Show me one in wording, where you emphasize in your lovely music and prose and poetry, where you urge the American people to uphold the Stars and Stripes. I didn't see one in that ballad.

"Mr. Robinson: It seems to me that these lines that I quoted to you before say this.

"Mr. Doyle: Do you find where you urge the American people to uphold the Constitution and the Stars and Stripes, where you are telling the American schoolchildren?

"Mr. Robinson: Do you mean my quoting, 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator,' I am just fooling around with that?

"Mr. Doyle: That is quoting. I mean where you write a poem yourself. My point is this: Show me one poem or one song where you have deliberately set to music or otherwise, that the American schoolchildren, for instance, or the Americans, shall support the Constitution, and so forth. Do you see what I am getting at?

"Mr. Robinson: I have a song called, The House I Live In. That is America to me. It has sold millions and millions of copies. It has been sung by most of the big singers in the country at one time or another. This says:

> *What is America to me? A name, a map, the flag I see, a certain word, democracy. What is America to me? The house I live in. The plot of earth, the street, the grocer and the butcher, the people that I meet.*

"The middle section goes on, the words of old Abe Lincoln, of Jefferson and Payne, of Washington and Roosevelt.

"Mr. Doyle: Mail me a copy and I will pay you for it, gladly.

"Mr. Robinson: The biggest line in it is 'A dream that has been growing for 150 years.' This has been sung. School kids know it. You should know it.

"Mr. Doyle: Why, then, do you tear down this theory by this sort of thing? Why do you tear down that magnificent conception of our country?

"Mr. Robinson: I am not tearing down. I never have torn down.

"Mr. Doyle: I beg to differ with you. I say mail me a copy of that, and I will pay you for it, gladly.

"Mr. Arens: I want to clear the record on one thing.

"Are you now a Communist?

"Mr. Robinson: Do you expect me to answer that?" (H. 111, pp. 791-92.)

Baltimore, 1957

"Mr. Doyle: May I ask, don't you think that under our assignment by Congress, that it is always pertinent for us to ask a man whether he is a Communist?" (H. 142, p. 113.)

Buffalo, N.Y., 1957

"Mr. Arens: We can try it and see how far we get. We want information. We think you have information. It is obvious we are not getting very much. You are now on record as opposing the Communist conspiracy, wanting to destroy it, that which menaces our Christian civilization. Thus far you have told us that you wouldn't tell us the other operators in this field, and thus far you tell us you have just been engaged in some innocent philosophical discussions which curiously enough have been held in secret.

"Tell us, if you please, sir, if you are sincere, and if you are willing to help this Government and this committee with the mandate from the Congress of

the United States, tell us what you know, sir, about the operations of the Communist Party, and what you did in the Communist Party.

"Mr. Ingerman: I will sketchily indicate, try my best to answer your question. While a member of the John Reed Club, most of the activities of that club and myself centered around highlighting questions of academic freedom. I contributed at that time to a newspaper that the club printed and distributed. I participated— (H. 117, p. 1663.)

Boston, 1958

"Mr. Doyle: Well, you were in it one time, I am going to assume. Why don't you make up to your country and do something positive in the best interest of your country, something to make up for the time you were in the filthy outfit? Why don't you do something to strengthen the form of your own American Government, to make up for the weakness you contributed to it during the time you were in the Communist Party?" (H. 121, p. 2244.)

* * *

"Mr. Arens: Did you ask them [Soviet officials] about the 20,000,000 people they have shot down, just mowed down like they were wheat in Kansas, in the course of the ascendancy of this awful thing called communism in Soviet Russia? Did you ask them about that?

"Mr. Lefavour: I didn't ask them about that." (H. 121, p. 2411.)

* * *

Mr. Arens: . . . You know you were talking about fighting Fascists.

"Mr. Chase: That is right.

"Mr. Arens: Fighting Hitler and fighting Mussolini. There is another force loose in the world today, Mr. Chase. It is a conspiracy, a Godless, atheist conspiracy, out to destroy all Christian civilization, out to destroy all mankind, out to destroy every person

who is not part and parcel of this atheistic, Godless conspiracy.

"The head of it now is a man by the name of Krushchev. He would make Hitler and he would make Mussolini look like innocent Sunday school boys, Mr. Chase." (H. 121, pp. 2358-59.)

* * *

"Mr. Arens: Do you know that your Government, through your Congress, has found the Communist Party of the United States to be part and parcel of an international conspiracy controlled from Moscow? A conspiracy, which from 1917 to 1924 alone, killed off of their own countrymen, 12,000,000 people by assassinations, executions, and famines; that in the last 30 years, the average population of the slave labor camps of the Soviet Union has been, the annual population, between 12 and 13 million people; that in Red China alone, an average estimate, a conservative estimate of 20 million human beings have had their lives snuffed out in that process, the ascendancy of this conspiracy. Today this conspiracy controls 900 million people on this globe, approximately a third of the People on this globe; that today this conspiracy has as its Number One target the United States of America; that the Soviet Union and its satellites, with 25 million agents strung around this world in a deadly fifth column, are seeking to destroy by every means possible the Nation under whose flag you obtain protection; and that you, sir, were in an organization for a number of years, by your own testimony here, which is part and parcel of that international conspiracy and you are now in the presence of a congressional committee seeking to procure information respecting the function and operation of that conspiracy in the United States so that this committee can return to Washington, D.C. and use that information, in connection with other information we have acquired elsewhere in the Nation, to appraise legislation designed to meet this awful Godless threat?

"Now, sir, please tell this committee the first cell to which you were attached in the Communist Party in the United States.

"Mr. Rosenkrants: Sir, I am very glad you made the statement you made. I feel that I have very good reason to be ashamed of my membership in the Communist Party." (H. 121, pp. 2330-2331.)

Atlanta, 1958

"Mr. Arens: . . . . A Communist is a person who is part and parcel of the Communist Party, either aboveground or belowground in the United States, the Communist operation. About 100 years ago there was a German scholar, Karl Marx. He evolved a philosophy of world revolution, an atheistic, communistic program. That was given a catalytic response by Nicolai Lenin, 50 years ago, at which time he and a band of revolutionaries seized control of the government. That movement has spread over the world. It has 33,000,000 agents over the world, in a death grip with all the God-fearing people, all that God-fearing people believe in. In the United States, 25 or 30 years ago that movement got a start. It is a movement that now has enmeshed in its grip 900 million people. It is a movement that proceeds by violence and deceit and subversion to corrupt and to destroy. It is the movement within Soviet Russia itself which has, in its ascendancy, destroyed over 10 million human souls. It has at least 20 million in slave labor camps. It is a movement in Red China, according to the best advices, that has destroyed approximately 40 million souls. It is a movement that is heading toward a total war against the United States of America. It is a movement that has enlisted within the United States a fifth column, dedicated to destroy this Government, which is the last bastion of freedom of any potency to resist this movement in the world.

"We understand, and we have received testimony from live witnesses under oath, responsible people, identifying you, Hunter Pitts O'Dell, as part and parcel of that movement, as a dedicated zealot of the Communist conspiracy in the United States who masquerades behind the Constitution of the United States,

and would desecrate the flag of this great Nation.'"* (H. 122, p. 2714.)

* * *

"Mr. Arens: . . . Now with reference to pertinency of this question to your own factual situation, may I say that it is the information of this committee that you now are a hard-core member of the Communist Party; that you were designated by the Communist Party for the purpose of creating and manipulating certain organizations, including the Emergency Civil Liberties Committee, the affiliate organizations of the Emergency Civil Liberties Committee, including a particular committee in California and a particular committee in Chicago, a committee—the name of which is along the line of the committee for cultural freedom, or something of that kind. I don't have the name before me at the instant.

"It is the information of the committee or the suggestion of the committee that in anticipation of the hearings here in Atlanta, Georgia, you were sent to this area by the Communist Party for the purpose of developing a hostile sentiment to this committee and to its work for the purpose of undertaking to bring pressure upon the United States Congress to preclude these particular hearings. Indeed it is the fact that you were not even subpoenaed for these particular hearings until we learned that you were in town for that very purpose and that you were not subpoenaed to appear before this committee until you had actually registered in the hotel here in Atlanta.

* * *

"Now sir, if you will tell this committee, whether or not, while you are under oath, you are now a Communist, we intend to pursue that area of inquiry and undertake to solicit from you information respecting your activities as a Communist on behalf of the Com-

* Compare figures in this and two immediately preceding items.

munist Party, which is tied up directly with the Kremlin; your activities from the standpoint of propaganda; your activities from the standpoint of undertaking to destroy the Federal Bureau of Investigation and the Committee on Un-American Activities, because indeed this committee issued a report entitled "Operation Abolition," in which we told something, the information we then possessed, respecting the efforts of the Emergency Civil Liberties Committee, of which you are the guiding light, to destroy the F.B.I. and discredit the director of the F.B.I. and to undertake to hamstring the work of this Committee on Un-American Activities." (H. 122, pp. 2682-3.)

* * *

"Mr. Arens: Now, sir, I put it to you as a fact and ask you to affirm or deny the fact that you are part of an enterprise to destroy the very Constitution of the United States under which we all have protection; that you are the agent of the Communist Party as an arm of the international Communist conspiracy sent into Atlanta for the purpose of engaging in conspiratorial activities on behalf of the Communist Party. If that is not so, deny it while you are under oath." (H. 122, p. 2687.) (See also H. 122, pp. 2669-70.)

Newark, 1958

"Mr. Scherer: I want to say to you it is professional Negroes like yourself, members of the Communist conspiracy, that hurt the cause of civil rights.

"Mr. Taylor: I resent that. Negro people are not members of any conspiracy. The only conspiracy we are guilty of is to overthrow Jim Crow.

"Mr. Scherer: All right. I had my say.

* * *

"Mr. Scherer: I agree that you are one of those Jackie Robinson said before this committee is a discredit to the Negro race." (H. 123, pp. 2839, 2841.)

Pittsburgh, 1959

"Mr. Arens: Do you believe with all the intensity of your heart in the preservation of the Constitution of the United States?

"Mrs. Schultz: That has been—Are you asking my opinion?

"Mr. Arens: Yes." (H. 125, p. 380.)

(See also, H. 67, p. 5480 (faith in the judiciary); H. 157, p. 2181 (belief in democracy).)

Pittsburgh, 1959

"Mr. Arens: Was it your objective, as education secretary of the Communist Party, to go to the University of Pittsburgh for the purpose of giving respectability, attempted respectability to a conspiracy?

"Mr. Lumer: I will decline to answer that on the same grounds.

"Mr. Arens: Did you discuss with the youth at the University of Pittsburgh the Hungarian uprising in which the tanks of the conspiracy mowed down innocent men and women like wheat?

"Mr. Lumer: I will decline to answer that on the same grounds.

"Mr. Arens: Did you discuss with the students the slave labor camps in Soviet Russia?

"Mr. Lumer: I decline to answer on the same grounds.

"Mr. Arens: Did you discuss with the students the criminal activities of the conspiracy enmeshed in all segments of the society of this Nation?

"Mr. Lumer: I decline to answer on the same grounds." (H. 125, pp. 385-86.)

* * *

"Mr. Arens: . . . Now as to you, sir, you have been repeatedly identified by live witnesses under oath before congressional committees as a hard-core member of the Communist conspiracy—

"Mr. Quinn: That's a lie.

"Mr. Arens: —one who is dedicated to the overthrow of the Government of the United States—

"Mr. Quinn: That is a lie.
"Mr. Arens: —by force and violence.
"Mr. Quinn: That's a lie. . . .

• • •

"Mr. Quinn: I don't have contempt for Congress, just contempt of this Committee. Make that clear.
"Mr. Scherer: I understand that.
"Mr. Quinn: I have every respect for the institutions of our country, including the Congress.

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"Mr. Scherer: All Communists have contempt for this Committee.
"Mr. Quinn: Don't call me a Communist because I told the director that is a lie." (H. 125, p. 412, 418.)

Chicago, 1959

"Mr. Arens: It is the information of this committee and it is the information of the United States Congress—indeed, it ought to be the information of all patriotic Americans—that there is sweeping the world now a godless, atheistic conspiracy known as communism, an international conspiratorial operation of which the conspiracy in the United States is just one tentacle. It is the objective of this conspiracy to crush all human freedom. It is the objective of this conspiracy to stamp out all the values upon which this civilization in the West and the free world has been founded.

"It is the information of this committee, sir, that you are part and parcel of that conspiracy; that you, sir, are a dedicated, hard-core Communist; that you, sir, have been practicing the techniques, conspiratorial operations of the Communist conspiracy within greater Chicago area dedicated to overthrow this Government of the United States and dedicated to destroy the Constitution of the United States, behind which you have sought protection today.

"Before this committee in executive session based upon intelligence information, we believe that you, sir, presently have information respecting the operation

of that conspiracy which is sweeping the world and which, according to this witness this morning and other witnesses of like knowledge, is more serious, a more deadly menace than ever before in the history of this Nation.

"Now, sir, with that explanation of pertinency, I ask you this question: Have you sir, in the course of your life used the name Mike Samuels, S-a-m-u-e-l-s?" (H. 128, p. 541.)

Washington, D.C., 1959

"Mr. Jencks: I am not a member of the Communist Party. . . .

"Mr. Arens: Are you now against the Communist Party?

• • •

"Mr. Jencks: Certainly I have many differences with the Communist Party; many, many differences.

"Mr. Scherer: I have many differences with the Republican Party, and I am a Republican.

"Mr. Jencks: So do I.

"Mr. Scherer: But I am not a Communist.

"Mr. Jencks: Neither am I.

"Mr. Scherer: I am still a Republican.

"Mr. Arens: Now would you tell us whether or not you are now against the Communist Party, please, sir?

"Mr. Jencks: Well, if the Chair rules that my answer is not acceptable to the committee, I will answer further.

"Mr. Scherer: I have directed you to answer. This is the fourth time.

"Mr. Jencks: Well, I have answered but you are not satisfied with my answer.

"Mr. Scherer: We are not satisfied with the explanation as to your refusal to answer the question.

"Mr. Johansen: Do I understand the witness' answer is that he is against many of the things that the Communist Party stands for?

"Mr. Jencks: That is right." (H. 131, p. 1089.)

San Francisco, 1960

"Mr. Izard: I avail myself of the first amendment, which you have already trampled upon, and I avail myself also of that citizen's shield of the Republic, the privilege of not being forced to testify against myself, under the fifth amendment.

"Mr. Scherer: A very fine speech, coming from a Communist." (H. 137, p. 2134.)

Washington, D.C., 1962

"Mr. Nittle: I suggest, Mr. Chancey, that you are a hard-core Communist and that the tears in your voice are quite unbecoming, would you comment on that?" (H. 153, p. 1121.)

Washington, D.C., 1963

"Mr. Nittle: Would you fight for Cuba?

[Laughter.]

"Mr. Nittle: Why do you hesitate in responding to that question, as an American citizen?

"Mr. Waegell: If there is another war we are through.

"The Chairman: Proceed, Counsel.

"Mr. Waegell: I don't care which side I am on, I am dead.

"Mr. Nittle: Well, you also refused to —

"Mr. Waegell: And I decline to answer.

"Mr. Nittle: —to comply with the Selective Service regulations during the Korean war, did you not?

"Mr. Waegell: I decline to answer on grounds previously stated.

"Mr. Nittle: When you refused to comply with the Selective Service regulations and were sentenced on September 24, 1951, to 3 years in prison for your failure to do so, did you then entertain the same views with respect to war as you now do?" [Witness declined to answer.] (H. 157, p. 494.)

Washington, D. C., 1966

"Mr. Ichord: The gentleman's counsel has withdrawn from the case. I do think that, in all fairness to this witness, he should be given an opportunity to obtain additional counsel.

"But I do feel, sir since you have been making so many statements, that the business that is pending before this committee is so important that we do not have time to listen to a bunch of clowns.

(At this point Mr. Clawson entered the hearing room.)

"Mr. Anton: I am not the clown, I will have you know. Bnt listen, Ritchie, really—" (H. 171, p. 1163.)

* * *

"Mr. Ewart: It seems to me that Mr. Pool is rather a fool in this matter, in that he has taken the facts—

"Mr. Nittle: We have similar language spewed forth from the Chinese Communists and from the Soviet Union. Are you repeating that Communist—

"Mr. Ewart: When did you talk to—

"Mr. Nittle: Are you spouting—

"Mr. Ewart: I don't know Chinese Communists. I don't think there are any Chinese Communists in this Nation." (H. 171, p. 1197.)

(See also H. 16, p. 3448; H. 77, p. 3146; H. 82, p. 5211; Id., p. 5574; Id., p. 5447; H. 96, pp. 3550, 3614; H. 105, p. 199; H. 111, p. 653; H. 121, pp. 2326, 2366-67; H. 122, pp. 2695, 2711; H. 135, pp. 1316-17; H. 137, pp. 1964-5, 2061-62; H. 148, pp. 1979-99, 1802; H. 157, pp. 239, 2034; H. 59, p. 6283; H. 96, p. 3532; H. 121, p.2334; H. 122, p. 2677; H. 123, p. 2861; H. 125, p. 456; Id., p. 489; H. 127, pp. 753, 764, 840; H. 137, p. 2006.)

The Committee abuses the Fifth Amendment privilege against self-incrimination.

The Committee sometimes pays lip service to the principle that invocation of the Fifth Amendment privilege

against self-incrimination is not an admission of guilt and that no inference can properly be drawn therefrom. However, the Committee:

(1) Challenges the right of the witness to invoke the Fifth Amendment unless the witness admits that an answer will in fact tend to incriminate him;

(2) Accuses witnesses who invoke the Fifth Amendment of being unpatriotic; and

(3) Expresses the view that invocation of the Fifth Amendment is tantamount to an admission of the truth of the accusation.

EXAMPLES OF COMMITTEE ASSERTION THAT THE FIFTH AMENDMENT IS AVAILABLE ONLY WHEN THE WITNESS CONCEDES THE ANSWER IS INCRIMINATING.

San Francisco, 1953

"Mr. Scherer: What is your employment at the present time?

(At this point, Mr. Wheeler conferred with Mr. Andersen.)

"Mr. Wheeler: I refuse to answer that, sir.

"Mr. Scherer: Mr. Chairman, I ask you to direct the witness to answer that question unless he is an espionage agent for the Russian Government at the present time. Then he could refuse to answer it. Otherwise I think he should be directed to answer.

"Mr. Velde: Yes, I can see no way your employment at the present time would tend to incriminate you unless that were true. I don't think you want the committee to believe that you are an espionage agent at the present time, and I do therefore direct you to answer the question." (H. 77, p. 3148.)

Lansing, 1954

"Mr. Clardy: That means you shall not be compelled to incriminate yourself. Let us not fence with the English language. You know what it means and that it is only invoked by people who are, in my humble opinion, apprehensive that they will do so. You leave that impression every time you raise it, and I don't care how many people argue to the contrary. I don't know of any innocent man that has ever appeared before this committee and invoked the fifth amendment on which we did not have evidence that he was a member of the Communist Party before we asked a question, and that, sir, applies to you as it does to every other one, and yet that would not incriminate you in any way, shape or form, because it is still not a criminal offense to be a member of that party. I am giving you a lecture on it because my patience is getting somewhat thin of hearing that raised and then hearing people go forth and prate about free speech, as the previous witness did, about an invasion of their right of privacy and all that sort of thing, as though they had something to hide. Now, if you have nothing to hide, you ought to tell us." (H. 82, p. 5375.)

Charlotte, 1956

"Mr. Arens: Do you honestly apprehend that if you told this committee under oath whether or not you are presently receiving instructions in your work, at the plant at which you are employed, from a foreign power you would be supplying information which could be used against you in criminal proceeding?

"Mr. Williams: Same answer." (H. 96, p. 3570.)

Buffalo, 1957

"Mr. Willis: Three witnesses who did not feel like you about it, and who felt an obligation truthfully to answer questions, answered under oath, subjecting themselves to the pains and penalties of perjury if they were not telling the truth, and said that you were

a Communist. What are you talking about unjust prosecution if three witnesses swear that you were a Communist? If you want to invoke the privilege of the fifth amendment, don't give us the usual act of being cute around here. Are you invoking the protection of the fifth amendment because you feel that to honestly answer the questions might subject you to criminal proceedings?

"Mr. Brownstone: I am answering under the first and fifth amendments of the Constitution. In relation to the fifth amendment, I am attempting to shield myself against an unjust prosecution.

"Mr. Arens: Would the prosecution of yourself as a Communist be unjust?

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"Mr. Brownstone: The last question will be answered in this way. I refuse to answer that question on the basis of the first and fifth amendments." (H. 117, p. 1671.)

Pittsburgh, 1959

"Mr. Arens: Do you honestly apprehend, sir, that if you told this committee truthfully, while you are under oath, whether or not you traveled abroad on a plan and purpose of international Communist conspiracy, you would be supplying information which could be used against you in a criminal proceeding?

(The witness conferred with his counsel.

"Mr. Devunich: I will say it would be misuse by this committee. That is why I plead first and fifth amendment." (H. 125, p. 499.)

Washington, D.C., 1960

"Mr. Hauser: I stand on the first and fifth amendments which guarantee my right and as an individual—

"Mr. Arens: Do you honestly apprehend, sir, while you are under oath and subject to the pains and penalties of perjury, that if you told this committee whether or not you have transmitted messages as a shortwave operator pursuant to the direction of a

person known by you to be a member of the Communist Party, that you would be supplying information which might be used against you in a criminal proceeding?" (H. 139, p. 1821.)

Washington, D.C., 1961

"Mr. Scherer: Do you honestly believe that to tell this committee what publications you write for, might lead to a criminal prosecution?

(The witness conferred with his counsel.)

"Dr. Dunham: Well, yes, I do; and I have personal experience of the fact, in view of the fact that I was once brought to trial for a valid use of the fifth amendment.

"Mr. Scherer: What trial was that? I am entirely ignorant of any trial that you were involved in.

"Dr. Dunham: In 1956 a trial for contempt of this committee. 1955. Excuse me.

"Mr. Scherer: Are these publications for which you write Communist publications?

(The witness conferred with his counsel.)

"Dr. Dunham: I will decline to answer that question, seeking again the protection of the fifth amendment.

"Mr. Scherer: I have no further questions." (H. 142, p. 98.)

Chicago, 1965

"Mr. Wolf: We have had no opportunity to cross-examine anyone; that has been denied.

"The Chairman: Proceed.

"Mr. Nittle: Miss Hayes, do you have knowledge on this subject?

"Miss Hayes: What subject, sir?

"Mr. Nittle: As to the question of Dr. Stamler's Communist Party membership at any time.

"Miss Hayes: I decline to answer the question on the basis of all grounds and reasons I have given before.

"Mr. Nittle: If you did not possess that knowledge and told this committee that you did not, how could that possibly incriminate you?

"Miss Hayes: I decline to answer the question on all the grounds and reasons given previously to you." (Ex. 50, p. 512.)

EXAMPLES OF COMMITTEE ACCUSATIONS THAT INVOCATION OF THE FIFTH AMENDMENT IS UNPATRIOTIC.

Washington, D.C., 1949

"Mr. Wood: Many of the questions which have been addressed to you and which you refused to answer were addressed to you for the sole purpose of eliciting information to help us in that respect. Notwithstanding your protestations of loyalty to the American Government and its institutions, you decline to aid us in that respect. It is just a little incongruous that a person can take those two positions and still say he is loyal to the the American people and the American Government." (H. 16, p. 352.)

New York, 1957

"Mr. Doyle: I have not drawn any conclusions or inferences, excepting, sir, that I have drawn this conclusion in your case—which I tried to state frankly, as an American Congressman—that I did not understand any man who claims to be a patriotic American citizen as of this date, and to have divorced himself from the Communist garbage pail, if he ever was in it. I do not understand how any such person claiming to now stand for the American free enterprise competitive system in its tussle with the Communist ideology, can come before this committee and feel that it is cricket and helpful to his Government to still be so close to the Communist conspiracy that he has to plead the amendment as of membership today in the party, or under discipline. I do not charge you, you see; I am just saying to you frankly, as one American to the other. Then I am saying I am drawing no inference about you, excepting that the record shows that you were a sponsor of the American Peace Mobilization." (H. 111, p. 848.)

Newark, 1958

"Mr. Arens: If you knew a person who was presently engaged in smuggling narcotics to destroy the moral fiber of this Nation and you were being interrogated by a congressional committee, would you tell that congressional committee about that person whom you knew was a smuggler of narcotics?

(The witness conferred with his counsel.)

"Mr. Cantor: I don't know any such person." (H. 123, p. 2860.)

Washington, D.C., 1959

"The Chairman: You are not under any compulsion. You say, 'I must decline.' You are not under any compulsion whatsoever. If you want to help the Congress and the country, you will not decline to answer." (H. 127, p. 671.)

Minnesota, 1964

"Mr. Nittle: Have you been instructed by Communist Party functionaries to invoke the fifth amendment in response to questions of this committee?" (H. 163, p. 1885.)

* * *

"Mr. Senner: Mr. Witness, we are here to determine facts to establish legislation that will protect the security of this Nation. You have been subpenaed and have been given an offer to appear in a different capacity also, in an executive session. We bend over backwards trying to afford you an opportunity to help this country. Is the reason that you raise the first, the fifth, and the sixth amendment, to prevent this committee trying to find facts that will help us us protect this country's security?" (H. 163, p. 1801.)

EXAMPLES OF EXPRESS STATEMENTS BY COMMITTEE THAT INVOCATION OF FIFTH AMENDMENT IMPLIES GUILT.

1951

"Rep. Potter: I think it's significant to point out that anyone who hides behind the Fifth Amendment, who in answer to the question as to whether he was

or had been a member of the Communist Party refuses to answer because his reply might tend to incriminate him, leaves the committee with only one choice, to believe that he is a member of the Communist Party. If he were not a member, had not been a member, certainly a truthful answer would not incriminate him and there would be no purpose in seeking the protection of the Fifth Amendment." (97 Cong. Rec. 6205-6 (1951).)

Seattle, 1954

"Mr. Scherer: Again you have not answered the question I last asked you as to whether or not you have been engaged in any espionage activities. You said if you had, you would have been prosecuted.

(At this point Mr. Kirkwood conferred with Mr. Hatten).

"Mr. Kirkwood: If I were charged with a crime or with any sort of espionage in a legal court of law, I would hesitate not at all to answer that question yes or no.

"Mr. Clardy: What would that answer be?

"Mr. Kirkwood: Well, you are asking two questions in a different way. Isn't that true? You know it, yourself.

"Mr. Clardy: It is inconceivable to me, Witness, that any honest patriotic American citizen would

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hesitate for one second to answer that question if he were innocent and had never engaged in espionage against his country. You have convinced me, sir, that possibly you have." (H. 59, p. 6287.)

* * *

"Mr. Doyle: Now may I reaffirm this? That I recognize and I am sure the committee recognizes that the opinions of our highest courts—and we follow the courts instead of our own personal opinion—have held that no inference is to be drawn of either innocence or guilt merely because a person claims his constitutional

privilege. Therefore the policy of this committee, following the law, which we always respect, is that merely because a person claims the constitutional privileges that is no reason for us, inferentially or otherwise, to have any belief or take any position that that person is necessarily guilty of any crime. However, as long as a few minutes ago, my name was mentioned as having declared in the public press that the taking of the fifth amendment was a Commie line. I wish to restate now that to my knowledge, in the history of this committee, the taking of the fifth amendment is a Commie line. That doesn't necessarily mean, in my book, that every person who takes it is one, but the records clearly show that taking the fifth amendment is a direction of the Communist Party." (H. 59, p. 6315.)

Charlotte, 1956

Mr. Willis: Mr. Chairman, I would like to make this observation. The last three witnesses who have appeared before us all possessed university degrees, B.A.'s, Ph.D.'s and so on. Yet what is their occupation or their ostensible occupation? One said he was a sheet metal worker. The other one a fish scaler, and the present witness a meat clerk. Is that what they went to college for?

"The witness has refused, by invoking the privilege of the fifth amendment, to tell us whether, while engaged as a meat clerk, he is receiving income or sources of income from other entities. I think, Mr. Chairman, the conclusion is inescapable that these people are professional agitators, expert emissaries of the Communist conspiracy, planted in the Southland. Who said it couldn't happen here?" (H. 96, p. 3602.)

St. Louis, 1956

"Mr. Tavenner: Mr. Younglove further testified that while attending the party school, from October 1945, to February 1946, at 2851 Gravois, Douglas MacLeod was an instructor at the school and stated

in the course of a lecture that socialism would never come about by the use of the ballot box. We would have to use violent force and action.

"Did you make any such statement as that in the course of your lecture or did you say that in substance to the group?

"Mr. MacLeod: Well, I would like to ask you, Mr. Tavenner, if you think it is conceivable that I could have said something like that.

"Mr. Tavenner: I haven't known you as long as Mr. Younglove has.

"Mr. Moulder: That is not responsive to the question.

"Mr. Scherer: I ask you direct the witness to answer.

"Mr. Moulder: The witness is directed to answer.

"Mr. Scherer: You have an opportunity now to deny it.

"Mr. MacLeod: A trap, Mr. Scherer, a trap.

"I assert all of the constitutional grounds I have previously asserted.

"Mr. Scherer: That would lead me to believe then that Younglove was telling the truth." (H. 100, p. 5078.)

Washington, D.C., 1960

"Mr. Arens: Mr. Witness, there is pending before this committee some legislation. We are very happy to have you here because we think your testimony will help us consider this legislation. It appears on this record that there were a number of conspirators, agents of a foreign power, who were screened off of merchant vessels by the Coast Guard. Thereafter, because of a series of judicial opinions, the Coast Guard has now been forced to reissue seamen's papers to a number of these Communists. Following a series of decisions which interpreted a California code enabling the California authorities to attempt to preclude from employment Communists in the State government, Congressman Walter, the chairman of

this committee, introduced a bill, H.R. 11780, which is pending before this committee. This bill provides that if a person who seeks seaman's papers is subpenaed before the Coast Guard or other Federal agencies, and interrogated and refuses to answer certain questions, that individual cannot be issued seaman's papers.

"We want to test this out with you and see how it would work for the benefit of the committee and the benefit of the record. This bill provides, and I am reading now from section 3B—I assume that your appearance will do just what you said at the meeting, help educate the committee — section 3B provides: 'No individual who willfully fails or refuses to appear before any Federal agency, when subpenaed or ordered to appear, or to answer under oath before such Federal agency any question concerning three items, shall be issued seamen's papers.'

"I am going to ask you those three questions.

"Mr. Goodman, are you a member of the Communist Party? Please answer that question. Under this bill, if enacted into law, you can't get seaman's papers if you don't answer that question. Please answer that question. Are you a member of the Communist Party?

"Mr. Goodman: The fact of the matter is that the bill is not a law yet." (H. 139, p. 1811.)

Unfriendly witnesses are often recalled as witnesses.

Following is a partial list of unfriendly witnesses who declined to answer substantially all accusatory questions during their first appearance and were nevertheless subsequently called and asked questions of similar import although there was no reason to believe they would be cooperative on a second (or in some cases, third) appearance.

Name	*First Appearance* Hearing No.	*Second Appearance* Hearing No.	*Third Appearance* Hearing No.
John J. Abt, Esq.	19	18	
Harold Buchman, Esq.	47	114	
John Caughlan, Esq.	59	107	
Martin Chancey	exec. sess. (see H. 153, p. 1120)	153	
Homer Chase	121	144	
Michael Crenovich	134	154	
Byron T. Darling	63	69	
Frank Donner, Esq.	94	125	
Eugene Feldman	96	122	
Dorothy Friedman	121	127	
John A. Johnson	137	157	
Joseph P. Henderson	47	114	
Clarence Hiskey	20	23	
Leo Huberman	154	157	
Frank Ilchuk	101	107	
Fred Jerome	130	157	
Irving Kaplan	56	142	
Milton Kestenbaum	4	78	
Irving Kandel	47	114	
Estelle Laba	90 (5/55)	90 (7/57)	
Hyman Lumer	108	125	130
Bocho Mircheff	101	127	
Steve Nelson	16	27	125
Herbert Nichol	47	114	
Russell Nixon	64	107	142
Stanley Nowak	107	127	
Hunter Pitts O'Dell	122	130	
Aaron Ostrofsky	47	114	

Name	*First Appearance* Hearing No.	*Second Appearance* Hearing No.	*Third Appearance* Hearing No.
Victor Perlo	19	94	127
Frank Pestana, Esq.	52	78	
John W. Porter, Esq.	52	125	
Thomas Quinn	30	125	
Samuel Richter	105 (9/56)	105 (2/57)	
Allan Rosenberg, Esq.	56	94	
Rose Rosenberg, Esq.	52	157	
Don Rothenberg	85	93	
Annette Rubinstein	101	142	
Joseph C. Scioli	117	161	
Milton Seif	47	114	
Esther Shandler, Esq.	52	107	
Myron E. Sharp	82	150	
Gale Sondegaard	43	103	
Harry Steinmetz	45	91	
Pauline Taylor	108	153	
Helen Travis	39	157	
Frank Wilkinson	107	122	
Levy Williamson	47	114	
Nathan Witt, Esq.	19	94	
Leroy Wolins	130	150	
Edward A. Wolkenstein	117	161	
William H. Wood	47	114	
Miroslaw Zelman	117	161	
Perry Zimmerman	90 (5/55)	90 (7/57)	

The Committee persists in interrogating unfriendly witnesses despite their refusals to testify.

The Zeisel study demonstrates that most unfriendly witnesses answer no questions or few questions about allegedly subversive activities. (See Appendix 5, pp. 7-10.) It is commonplace that the Committee puts a line of defamatory questions despite the witness' continued declinations to testify. (See Appendix 5, p. 8.) The Committee moreover does so despite express statements by the witness that no further such questions will be answered.

For example:

San Francisco, 1957

"Mr. Sarvis: Twice within the last five minutes I have made my position clear. It is a position which I take on advice of counsel to protect myself; counsel advises me that I would be in trouble regardless of how I answer this question, that I must take the Fifth Amendment and any further questioning or implications along this line obviously are only going to find the same answers from me and could only serve the purpose I have mentioned, public embarrassment and threat to employment." [The Committee continued to put defamatory questions.] (H. 115, p. 1200.)

Washington, D.C., 1961

"Mr. Nixon: . . . and I will for the same reason refuse to answer other questions that I deem to be of the same character.

"I should like to say in conclusion that when and if you ask further questions of this nature, and I say I decline for the reasons already stated, I have reference to all of the reasons that I have just described to you.

"Mr. Scherer: Now, Witness, are you still a member of the Communist Party?

"Mr. Nixon: Did you hear my statement just now, Mr. Scherer?

* * *

"The Chairman: Answer the question.

"Mr. Nixon: Well, the reason I ask whether you heard my statement is because it is a categorical refusal to answer all such questions, and there should be no question in your mind that I am going to answer that question, I refuse to answer for all of the reasons that I have just described.

"Mr. Tavenner: Were you a member of the Communist Party in 1958, the year of the publication of the Statement of the Awards Committee?

Mr. Nixon: You are wasting your time. I am not going to answer your question. * * * *

Mr. Tavenner: It is noted that the address given of the office for The Fund for Social Analysis is Room 2800, 165 Broadway. Have you met with the officers of this association at that address? * * * *

"Mr. Nixon: As I said before, I am not going to answer any questions regarding the Fund.

"Mr. Tavenner: Then you refuse to answer. And I am going to continue to ask the questions that you ought to be asked. * * * *

"Mr. Nixon: You understand what I said?

"Mr. Tavenner: I understand what you said, but I always live in hopes that a person may change his mind, even you, Mr. Nixon." (H. 142, p. 68.)

The Committee, frequently, invites or expressly permits the witness to express his grounds for refusal to testify in a shortened form.

Washington, D.C., 1961

"Mr. Aptheker: My answer is the same, and is it necessary for me to repeat the entire phraseology?

"Mr. Tavenner: No, it is not; if you say 'on the same grounds', I think that the Chairman will accept that." (H. 142, p. 82.)

Minneapolis, 1964

"Mr. McDonald: I respectfully decline to answer this question on the grounds that any answer given may incriminate me or may violate my rights under the first, the fifth, or the sixth amendment of the United States Constitution.

"Mr. Nittle: Now, Mr. McDonald, I think if you choose to invoke those reasons for your refusal to respond to future questions, you may simply state that you will refuse to respond for the same reason." (H. 163, p. 1783.)

Chicago, 1965

"Mr. Diskin: I decline to answer that question on the following grounds—

"The Chairman: Would you say on the grounds previously advanced?" (Ex. 50, p. 410.) (See also H. 82, p. 5407; H. 155, p. 2102.).

INJURY TO UNFRIENDLY WITNESSES AND PERSONS NAMED IN TESTIMONY

Many persons who have been called as witnesses by the Committee, or who have been named in testimony by the Committee's friendly witnesses, have lost their jobs and suffered other forms of injury.

The Committee disclaims responsibility for such happenings. For example, Rep. Willis stated in New Haven in 1956 (H. 105, p. 5736):

> "Mr. Willis: Along that line, on the question of loss of employment, we read that people lose their jobs because they invoked the Fifth Amendment.
>
> "That is not an accurate statement. If anyone here loses his job as a result of his appearance before our committee, is it not more accurate to describe the situation, perhaps, that the employers so concluded because they were openly identified by live, true witnesses under oath as being, or having been, members of the Communist conspiracy, in addition to their invocation of the fifth amendment?"*

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* The Committee has been helpful to those who cooperate. "There are very few cooperative witnesses today who have come forward with their stories in honesty and in sincerity and with that quality of trustworthiness of which the chairman spoke yesterday who have not been received back and given every assistance in social and political rehabilitation." (H. 77, p. 3323.)

Seattle, 1954

"Mr. Jackson: I assume that the witness, Captain Strom [fire department captain], has taken into consideration the likely consequences of the position that he is taking here today. There may well be in the balance a very long and faithful service to the city of Seattle.

* * *

"Mr. Jackson: . . . from time to time the members of this committee have a very real feeling of regret when an individual in your position takes his career, weighs it in the scale of his mind, and decided that he is going to decline to assist the committee." (H. 59, pp. 6520, 6523.)

Some examples of reported injury follow:

Injury to persons named by Committee witnesses.

1950

Paul H. Morrison. Fired—Hanan Corp., Pittsburgh. ("Two Named by Cvetic as Reds Lose Job," *Pittsburgh Sun-Telegraph,* Mar. 9, 1950, p. 2).

Alice C. Roth. Fired—American Coin-A-Matic Machine Co., Pittsburgh; dismissed as grand juror. (Id.; "Red-Tainted Woman May Be Kept off Jury by Judge Musmanno," *Pittsburgh Post-Gazette,* Mar. 7, 1950, §2, p. 1; "Grand Juror 'Fired' as Red Files Appeal," *Pittsburgh Press,* Mar. 21, 1950, p. 1; *Pennsylvania ex rel. Roth* v. *Musmanno,* 364 Pa. 359, 72 A.2d 263 (1950)).

Nick Lazari. Option of denying charge of Communism or resigning, Local 237, Hotel and Restaurant Alliance AFL, Pittsburgh. ("Union Attacks Officers Called Red, Two Accused by Cvetic Told to Deny Charge Publicly or Resign," *Pittsburgh Post-Gazette,* Feb. 24, 1950, §2, p. 1).

George Nichols. Option of denying charge of Communism or resigning, Local 237, Hotel and Restaurant Alliance AFL, Pittsburgh. (Id.).

Mrs. Toni Nuss. Removed from welfare rolls, Pittsburgh. ("Red Mother Back on Relief Rolls," *Pittsburgh Press,* June 1, 1950).

Charles M. Kern, Jr., Barred from radio station WMCK, Pittsburgh as radio speaker. ("Radio Station Bars Speaker Named as Red," *Pittsburgh Post-Gazette,* Mar. 15, 1959, p. 1).

Hamp Golden. Removed as President of Canning Workers Local 325, Heinz Co., Pittsburgh; blackballed from veteran's organization; forced to move twice. ("Local Couple Acted as Commies for FBI, Probe Gets Story on Reds Here," *Pittsburgh Post-Gazette,* Mar. 11, 1959, p. 1; H. 125, p. 326).

John Bronich. Investigated by trial committee with possibility of ouster, Local 33, Office Employes International, Pittsburgh. ("'Red Scare' Probe Asked in Congress," *Pittsburgh Press,* Mar. 22, 1950, p. 8).

Max Mandel. Fired, Pittsburgh Symphony; expelled from A. F. of L. American Federation of Musicians and Pittsburgh Musical Society, Local 60. ("Music Union Ousts Suspected Red," *Pittsburgh Press,* Mar. 16, 1950, p. 1).

Hymen Schlesinger. Charges by Bar Association leading to disbarment, Pittsburgh; later reversed. (*In re Schlesinger,* 404 Pa. 584; 172 A.2d 835 (1961)).

Steve Nelson. Denaturalization proceedings. ("Deportation faces 20 Reds Cvetic Named," *Pittsburgh Press,* Mar. 16, 1950, p. 1; *United States* v. *Nelson,* No. 12211 (W.D. Pa.)).

Anna Devunich. Denaturalization proceedings. (*United States* v. *Devunich,* No. 12230 (W.D. Pa.)).

Alex Roth Rakosi. Denaturalization proceedings. (*United States* v. *Rakosi,* No. 12231 (W.D. Pa.)).

Brinley True. Denaturalization proceedings. (*United States* v. *True,* No. 12232 (W.D. Pa.)).

Steve Devunich. Denaturalization proceedings. (*United States* v. *Devunich,* No. 12229 (W.D. Pa.)).

Steve Paich. Denaturalization proceedings. (*United States* v. *Paich,* No. 12566 (W.D. Pa.)).

Katherine Kemenovich. Denaturalization proceedings. (*United States* v. *Kemenovich,* No. 12597 (W.D. Pa.)).

Andrew Onda. Harassment of man with same name as person named by witness. ("Unfortunately There Are Two Andrew Ondas", *Pittsburgh Press,* March 19, 1950, p. 17.)

1952

Russel J. Kitto. Ejected from Cadillac plant, Detroit. ("Union Aid is Ejected at Cadillac," *Detroit News,* Mar. 4, 1952).

Herman Burt. Ejected from Midland Steel Products Co., Detroit. (Id.).

Van A. Brooks. Co-workers at Chrysler Jefferson Plant, Detroit refused to work with him. (Id.).

Leon England. Co-workers at Kercheval plant, Detroit, refused to work with him. (Id.).

George Burt. Co-workers at Midland Steel Products, Detroit, refused to work with him. ("Workers Allow 2 Accused Reds to Return," *Detroit News,* Mar. 10, 1952).

Fred Fische. Co-workers at General Motors Transmission Division, Detroit, refused to work with him. (Id.).

Mr. X. Ejected from Chrysler Jefferson plant, Detroit. (*In re Chrysler Corp., Chrysler-Jefferson Plant & UAW, Local 7 (CIO)*, 19 Lab. Arb. 408 (1952)).

Gustave Jurist. Steps taken to oust from Detroit Public Housing. ("Housing Chiefs Check Tenants with Red List," *Detroit News,* Mar. 1, 1952, p. 16).

Jules Yanover. Fired from Detroit Symphony Orchestra. ("Symphony Violinist is Suspended," *Detroit Times,* Feb. 27, 1952, p. 1).

1954

Jean L. Asselin. Fired, Fisher Body Plant 1, GM, Flint. ("Fisher Body Woman Loses Job," *Flint Journal,* July 29, 1954, p. 4).

Lee Salk. Fired, State Mental Health Department. ("Firing of Reds Tough in Michigan," *Flint Journal,* July 31, 1954).

William Andrew Record. Fired, Detroit. (H. 55, p. 2907).

1967

Joe Uris. Telephone threats, Portland, Oregon. ("Uris Reports Phone Threat," *Oregonian,* Apr. 16, 1967).

Injury to unfriendly witnesses before their testimony.

1951

Michael Wilson. Movie writer, fired, Hollywood. (H. 43, p. 1675, *Wilson et al.* v. *Loews, Inc.,* 142 Cal. App.2d 183, 298 P.2d 152 (1956), *cert. dismissed,* 355 U.S. 597 (1958)).

1953

James F. Wood. Fired, Bechtel Corp., San Francisco. (H. 77, p. 3243).

Van Frederick. Fired, Bechtel Corp., San Francisco. (H. 77, p. 3241).

Mildred Bowen. Fired, San Francisco. (H. 77, p. 3351).

1954

Tom Ellis Bryant. Fired, Motor Carrier Central Freight Assoc., Detroit. (H. 82, p. 5057).

*James Zarichny.** Fired, Chevrolet Manufacturing Plant 5, Flint. ("Zarichny Gets Fired From Chevrolet Plant," *Flint Journal,* July 22, 1954).

*Charles Schinn.** Ejected, Fisher Body Plant 2, Flint. ("Shop Worker Tossed Out," *Flint Journal,* May 17, 1954).

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* Never called to stand.

Paul Joseph. Co-workers refused to work with him, Chevrolet Manufacturing, Flint. (Id.).

John Caughlan, Esq. Anonymous profane phone calls to office of witness and Bar Association; injury to law practice. (H. 59, p. 6565).

1956

John V. Myers. Fired, Campbell College, Buies Creek, North Carolina. (H. 96, p. 3523).

William Evans. Fired, White Furniture, Co., Hillsboro, N.C. (H. 96, p. 3533).

1957

William K. Sherwood. Research scientist, committed suicide.** ("Suicide Brings Attack on Inquiry," *San Francisco Chronicle,* June 18, 1957, p. 1).

** Excerpts from statement of William K. Sherwood Regarding His Being Subpoenaed to Appear Before A Subcommittee of the House Committee on Un-American Activities at San Francisco on June 18, 1957: " . . . I resent the intrusion of the House Un-American Activities Committee [into my work]. . . . More than this, the Committee's action may also result—in fact, I think this is unquestionably intended to result—in depriving me of my employment and hence of the opportunity to continue my researches. . . . [The Committee's] trail is strewn with blasted lives, the wreckage of useful careers. Scientific workers especially have felt the blast of the Committee's blunderbuss. . . . It is not only that numerous scientific workers have been denied the right to work in the fields in which they are qualified. Outweighing this is the sobering fact that the scientific mind, the mind which is dedicated to the quest for truth, cannot flourish in an atmosphere of fear, timidity and imposed conformity." (Unpublished statement in Library of International Longshoremen's and Warehousemen's Union, San Francisco, California. See also New York Times, June 18, 1957.)

1958

Dr. Elias Snitzer. Fired, Lowell Technological Institute. ("Two Are Suspended in Red Probe Call," *Boston Herald,* Mar. 15, 1958, p. 1).

David Murray Fine. Fired, Lowell Technological Institute. (Id.).

1959

Clara Hutcherson Saba. Fired, Roanoke, Va. (H. 122, p. 2648).

1960

Evelyn Schoenfeld. Fired, Whittier-University Elementary School, Berkeley. ("Board will not Rehire 2 Teachers," *Berkeley Gazette,* May 3, 1960, p. 1; "Two City Teachers Subpoenaed, Fired," *Daily Californian,* May 4, 1960).

Jack Schratter. Fired, Garfield Junior High School, Berkeley. (Id.).

Six teachers. Forced to resign or dismissed, San Francisco area. ("6 Coast Teachers Forced to Resign, California School Boards Act in Wake of House Inquiry into Red Activities," *New York Times,* Mar. 19, 1960; "Suspect Teachers Still Have Credentials," *San Francisco Chronicle* Apr. 27, 1960, p. 7).

Harold Collins. Fired, Union High School, Huntington Beach. (*Huntington Beach Union High School* v. *Collins,* 202 Cal.App.2d 677, 21 Cal. Rptr. 56 (1962), *cert. den.,* 371 U.S. 904 (1962).)

1961

Martin Chancey. Translating business ruined twice. (H. 153, p. 1120).

1966

Stephen Smale. Delay and reduction of federal research grant. "Roudebush v. Smale: Should Politics Sway Grants?", *Scientific Research*, Sept., 1967, pp. 15-16; 14 *Notices Amer. Math. Soc.*, 778 (1967); 15 *Id.* 49-52, 297 (1968).)

Injury to unfriendly witnesses following appearance before Committee.

1947

Adrian Scott. Producer, fired. (John Cogley, *Report On Blacklisting*, vol. 1, Fund for the Republic (1956), p. 23).

Edward Dmytryk. Director, fired. (Id.).

Lester Cole. Writer, fired. (Id.).

Ring Lardner, Jr. Writer, fired. (Id.).

Dalton Trumbo. Writer, fired. (Id.).

John Howard Lawson. Writer, blacklisted. (Id.).

Albert Maltz. Writer blacklisted. (Id.).

Alvah Bessie. Writer, blacklisted. (Id.).

Samuel Ornitz. Writer, blacklisted. (Id.).

Herbert Biberman. Writer-Director, blacklisted. (Id.).*

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* In November, 1947, shortly after the appearances and contempt citations of these ten unfriendly witnesses, 50 members of the Motion Picture Association of America, the Association of Motion Picture Producers and the Society of Independent Motion Picture Producers met in New York City and issued a statement that they would discharge without compensation and not re-employ any of the "Hollywood Ten", ". . . until such time as he is acquitted or has purged himself of contempt and declares under oath that he is not a Communist." They went on to state that "we will not knowingly employ a Communist or a member of any party or group which advocates the overthrow of the Government of the United States by force or by any illegal or unconstitutional methods." Cogley, *Report, supra,* vol. 1, p. 22. This action began official blacklisting in Hollywood and in the radio and television industries in New York, freezing out of the entertainment and communications industries persons who had been named as Communists by friendly witnesses before the Committee or who had themselves appeared before the Committee and refused to answer questions concerning political associations or beliefs.

In *Cole* v. *Loew's Inc.,* 8 F.R.D. 508, 523 (S.D. Cal. 1948), *rev'd,* 185 F.2d 641 (9th Cir. 1950), the court found that agents or investigators of the Committee insisted to film executives that certain Hollywood writers (including Lester Cole) should be discharged.

In 1950, *Red Channels,* published by a private organization known as Counterattack, listed approximately 150 persons in entertainment and communications, juxtaposing their names against defamatory materials primarily from Committee hearings and reports. This list became the semi-official handbook for blacklisting. *Red Channels, The Communist Influence In Radio And Television,* Counterattack, New York, 1950. In Committee Annual Reports for 1952 and 1953, a list of 324 names cited by friendly witnesses was published. All were blacklisted from the Hollywood studios. Cogley, *Report, supra,* vol. 1, p. 97.

Blacklisting continued throughout the 1950's. See Cogley, *Report, supra,* vols. 1 and 2; *Wilson* v. *Loew's, Inc.,* 142 Cal. App.2d 183, 298 P.2d 152 (1956), *cert. dismissed,* 355 U.S. 597 (1958) (A

1950

Esther Tice. Ejected, and fired, Formica Plant, Cincinnati. ("Accused Red Asks NLRB Aid," *Cincinnati Enquirer*, Aug. 8, 1950, p. 1).

1952

John Cherveny. Ejected, American Metal Products Co., Detroit. ("Protection Demanded by Accused Red," *Detroit Times*, Feb. 27, 1952).

Joseph Bernstein. Fired, Detroit News. ("Artist Called Red Loses Job on Paper," *New York Times*, Feb. 28, 1952).

Elinor Maki. Fired, art teacher, Detroit Board of Education. (Id.).

Lorraine F. Meisner. Suspended, student, Wayne University. ("Red Hearings Bring Suspension," *Detroit Free Press*, Feb. 29, 1952).

Mr. X. Fired, Chrysler Corp., Dodge Main Plant. (*In re Chrysler Corp., Dodge Main Plant & UAW Local 3 (CIO)* 18 Lab. Arb. 836 (1952)).

Two editorial writers. Fired, Los Angeles Daily News. (*In re Los Angeles Daily News & American Newspaper Guild, Los Angeles Newspaper Guild) (CIO)*, 19 Lab. Arb. 39 (1952)).

Francis W. McBain. Employment difficulties between 1952 and 1959. (H. 128, p. 603).

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tort action by 23 blacklisted plaintiffs against a number of film distributors and producers and two members of the House Committee on Un-American Activities, for joining and agreeing to refrain from employing any persons who had refused to answer questions before the Committee concerning political belief and associations, or had been named as Communists before the Committee).

1953

Byron Thorwell Darling. Fired, Ohio State University. ("OSU Professor Defies Quiz; Suspension is Ordered by Bevis," *Columbus Evening Dispatch,* Mar. 13, 1953, p. 1).

Janet Scott. Fired, Knickerbocker News. ("Albany Reds Few, House Group Hears," *New York Times,* July 17, 1953).

Samuel M. Kaplan. Fired, Philadelphia Board of Education. (*Kaplan* v. *Board of Public Education School District of Philadelphia,* 179 Pa. Super. 88, 113 A.2d 164 (1955), *aff'd* 388 Pa. 213, 130 A.2d 672 (1957)).

Herman A. Beilan. Fired, Philadelphia Board of Education. (*Beilan* v. *Board of Public Education School District of Philadelphia,* 386 Pa. 82, 125 A.2d 327, *aff'd* 357 U.S. 401 (1958)).

Sadie T. Atkinson. Fired, Philadelphia Board of Education. (*Board of Public Education School District of Philadelphia* v. *Intille,* 401 Pa. 1, 163 A.2d 420, *cert. denied,* 364 U.S. 910 (1960)).

Thomas Deason. Fired, Philadelphia Board of Education. (Id.).

William G. Solar. Fired, Philadelphia Board of Education. (*Board of Public Education, School District of Philadelphia* v. *Solar,* 406 Pa. 168, 176 A.2d 653 (1961)).

Theodore S. Polumbaum. Fired, United Press. (*In re United Press Ass'n & American Newspaper Guild (CIO),* 22 Lab. Arb. 679 (1954)).

John W. Mass. Fired, City College of San Francisco. (*Board of Education of San Francisco Unified School District* v. *Mass.,* 47 Cal. 2d 494, 304 P.2d 1015 (1956); *Mass.* v. *Superior Court,* 197 Cal. App.2d 430, 17 Cal. Rptr.

549 (1961); *Mass* v. *Board of Education San Francisco Unified School District,* 61 Cal.2d 612, 394 P.2d 579, 39 Cal. Rptr. 739 (1964)).

1954

Dr. Gerald Harrison. Fired, Wayne State University. ("Two Wayne Professors Won't Say if They're Red," *New York Times,* May 4, 1954; "Clardy Investigation Turns to Communist Labor Infiltration," *Flint Journal,* May 4, 1954).

Dr. Irving Stein. Fired, Wayne State University. (Id.).

Mervin Engle. Fired, Chevrolet Mfg. Plant, Flint. ("Shop worker tossed Out, Fisher Man Roughed Up As a 'Red,' " *Flint Journal,* May 17, 1954).

Howard Falk. Fired, Buick Dynaflow, Flint, ("UAW-CIO Drops Grievances in Case of Two Alleged Reds," *Flint Journal,* June 19, 1954).

Sherwood Baumkel. Threatened by co-workers, Buick, Flint. ("Third Hearing Witness Fired," *Flint Journal,* June 2, 1954).

Murray Borod. House stoned, red paint thrown at home, Flint; fired, Chevrolet Manufacturing. ("Red Suspects' Windows Stoned," *Flint Journal,* May 19, 1954; "Fifth Alleged Communist Fired by GM," *Flint Journal,* June 22, 1954).

Jacob Moscou. Fired, Chevrolet Manufacturing Plant 5, Flint; grievance dropped by union. ("Sixth Alleged Red Fired from GM Job," *Flint Journal,* July 12, 1954; "Union Drops Moscou Case," *Flint Journal,* July 16, 1954).

Martin Trachtenberg. Fired, Buick, Flint. ("Union Drops Moscou Case," *supra*).

William Van der Does. Fired, Fisher Body Plant 1, Flint; car stoned. ("Van der Does' Car Stoned", *Flint Journal,* July 9, 1954).

Howard Foster. Assaulted, Flint. ("Another Shop Man Attacked at Chevrolet," *Flint Journal,* July 1, 1954).

Mark Nickerson. Fired, University of Michigan. (44 AAUP Bull. 53-101 (Mar. 1958).)

Horace Chandler Davis. Fired. University of Michigan. (Id.).

Dr. X. Fired, University of Michigan. (Id.).

Stanley William Moore. Fired, Reed College. (Id., pp. 102-36).

Sophie Elfont. Fired, Philadelphia Board of Education. ("4.Out in Red Inquiry, More Dismissals in Philadelphia Bring Total to 14," *New York Times,* May 4, 1954).

Caroline K. Perloff. Fired, Philadelphia Board of Education. (Id.).

Samuel Drasin. Fired, Philadelphia Board of Education. (Id.).

Eleanor Fleet. Fired, Philadelphia Board of Education. (Id.).

Angela Intille. **Fired, Philadelphia Board of Education.** ***(Board of Public Education School District of Philadelphia* v. *Intille, supra.*)**

Goldie Watson. **Fired, Philadelphia Board of Education.** ***(Board of Public Education School District of Philadelphia* v. *Watson,* 401 Pa. 62, 163 A.2d 60, *cert. denied,* 364 U.S. 910 (1960)).**

Herbert Salter. Fired, Worthington Corp., Holyhoke, Mass. (*U. E.* v. *Worthington Corp.,* 236 F.2d 364 (1st Cir. 1955).)

Frank Parker. Fired, Worthington Corp., Holyhoke, Mass. (Id.).

Joseph Stern. Fired, J. H. Day Co. (*In re J. H. Day Co. & Local 766* (Ind.), 22 Lab. Arb. 751 (1954)).

Lee Lorch. Fired, Fiske University. (45 AAUP Bull. 27-46 (Spring, 1959)).

1955

Estelle Laba. Fired, Newark Board of Education. (*Laba* v. *Board of Education of Newark,* 23 N.J. 364, 129 A.2d 273 (1957); H. 90, p. 1368).

Robert Lowenstein. Fired, Newark Board of Education. (*Lowenstein* v. *Newark Board of Education,* 35 N.J. 94, 171 A.2d 265 (1961)).

Perry Zimmerman. Fired, Newark Board of Education. (*Zimmerman* v. *Board of Education of Newark,* 38 N.J. 65, 183 A.2d 25 *cert. denied* 371 U.S. 956 (1963); H. 90, p. 1373; "This Fifth Amendment Club Included 3 Teachers," *Newark Star Ledger,* May 20, 1955, p. 1).

Andries Deinum. Fired, University of Southern California. (44 AAUP Bull. 151-7 (March, 1958)).

1956

Arthur Globe. Fired, Los Angeles County (social worker). (*Globe* v. *Los Angeles,* 163 Cal.App. 2d 595, 329 P.2d 971 (Dist. Ct. App. 1958) *aff'd* 362 U.S. 1 (1960)).

HYK. Fired, Republic Steel Youngstown. (*In re Republic Steel Corp., Corrigan-McKinney Plant & United Steelworkers, Local 1098,* 28 Lab. Arb. 811 (1957)).

Laurent R. LaVallee. Fired, Dickinson College. (44 AAUP Bull. 137-50 (March, 1958). (Committee staff informed College President prior to testimony).)

1957

Benjamin Fino. Fired, Bethlehem Steel, Baltimore; union refused to bring grievance proceedings. ("Bethlehem to Fire Six," *Baltimore Sun,* May 10, 1957, p. 1; *Ostrofsky* v. *Maryland Employment Security Board,* 218 Md. 509, 147 A.2d 741 (Ct. Ap. 1959); *Ostrofsky* v. *United Steelworkers of America,* 273 F.2d 614 (4th Cir., 1960) *cert. denied,* 363 U.S. 849 (1960)).

Joseph P. Henderson. Fired, Bethlehem Steel, Baltimore; union refused to bring grievance proceedings. (*Ostrofsky* v. *USW, supra; Baltimore Sun, supra; Ostrofsky* v. *Md. Bd., supra*).

Levi Williamson. Fired, Bethlehem Steel, Baltimore; union refused to bring grievance proceedings. (*Baltimore Sun, supra).*

William H. Wood. Fired, Bethlehem Steel, Baltimore; union refused to bring grievance proceedings (*Ostrofsky* v. *USW, supra, Baltimore Sun, supra; Ostrofsky* v. *Md. Bd., supra).*

Aaron Ostrofsky. Fired, Bethlehem Steel Baltimore; union refused to bring grievance proceedings; denied unemployment compensation. (*Ostrofsky* v. *VSW, supra; Ostrofsky* v. *Md. Bd., supra; Baltimore Sun, supra.)*

Milton Seif. Fired, Bethlehem Steel Baltimore; union refused to bring grievance proceedings; denied unemployment compensation. (*Baltimore Sun, supra, Ostrofsky* v. *Md. Bd., supra*).

Irving Spector. Fired, and ejected, Bethlehem Steel, Baltimore; union refused to bring grievance proceedings.

("Coworkers Shun Balker" *Baltimore Sun,* May 9, 1957, p. 1; *Baltimore Sun, supra*).

Jeanette K. Fino. Fired, waitress, Baltimore; denied unemployment compensation. (*Fino* v. *Maryland Employment Security Board,* 218 Md. 504, 147 A.2d 738 (Ct. App. 1959)).

Mr. X. Fired, Capital Airlines. (*In re Capital Airlines, Inc., & International Association of Machinists; District 144,* 30 Lab. Arb. 836 (1958)).

Jack Eshleman. Fired, San Francisco Examiner. (*In re Hearst Publishing Co., San Francisco Examiner Division & American Newspaper Guild, Local 52,* 30 Lab. Arb. 642 (1958)).

Stanley Michalowski. Fired, Pratt & Whitney, New Haven. (*In re Pratt & Whitney Co. & UAW Local 405,* 28 Lab. Arb. 668 (1957)).

Julian Chazin. Fired, Bethlehem Steel, Buffalo; union refused to bring grievance proceedings. ("Steel Locals Won't Back Five Suspended Workers," *Buffalo Courier-Express,* November 25, 1957; "Bethlehem Upholds Firing of Five Named at Hearing," *Buffalo Courier-Express,* Dec. 12, 1957).

Everett S. Jones. Fired, Bethlehem Steel, Buffalo; union refused to bring grievance proceedings. (Id.).

Sam Brook. Fired, Bethlehem Steel, Buffalo; union refused to bring grievance proceedings. (Id.).

Miroslaw Zelman. Fired, Bethlehem Steel, Buffalo; union refused to bring grievance proceedings. (Id.).

Edward A. Wolkenstein. Fired, Bethlehem Steel, Buffalo; union refused to bring grievance proceedings. (Id.).

Floyd Fried. Fired, Westinghouse Electric Corp, New York. (*Carey* v. *Westinghouse Electric Corp.*, 6 N.Y.2d 934, 190 N.Y.S.2d 1003 (1958); *In Re Westinghouse Electric Corp. & Eectric Workers Union, Locals 315 & 1581,* 35 Lab. Arb. 315 (1960)).

Vincent Pacile. Fired, Westinghouse Electric Corp., New York (Id.).

James Annaccone. Fired, Westinghouse Electric Corp., New York (Id.).

1958

Joseph Papp. Fired, CBS. ("A Dubious Path," *Boston Herald,* June 25, 1958).

Charles Dubin. Fired, NBC. (Id.).

1959

Alexander Staber. Attempt to oust from public housing. ("Commie 'Boss' Free-Rides Here," *Pittsburgh Press,* Mar. 12, 1959, p. 1).

Richard Reichard. Fired, George Washington University. (108 Cong. Rec. 23065-66 (1962); 48 AAUP Bull. 240-47 (Sept., 1962).)

1961

Rudolph W. Jones. Fired, WABQ radio, Cleveland. ("WABQ Fires Chief Engineer Jones," *Cleveland Press,* Oct. 30, 1961).

1964

Paul Sporn. Fired, University of Buffalo, (English instructor). ("Firing of 6 Witnesses at HUAC Probe Scored", *Buffalo Courier-Express,* June 10, 1964.)

Tobias Schwarte. Fired, Roswell Park Memorial Institute, Buffalo (Scientist). (Id.)

John Forichette. Fired, City Surveyor, Minneapolis. ("City Ousts Surveyor Cited as Red", *Minneapolis Morning Tribune*, July 10, 1964, p. 8.)

James A. Brown. Fired, Viking Chevrolet Co., Minneapolis; expelled, International Association of Machinists. ("Mechanic, Fired After HUAC Hearing, To Fight", *St. Paul Dispatch*, July 11, 1964; "Mechanic To Fight Ouster From Union", *Minneapolis Star*, Aug. 12, 1964.)

1965, 1967

Jeremiah Stamler, M.D. Threats of violence, Chicago. ("Guard Stamler After Threats", *Chicago's American*, May 29, 1965, p. 1). Inactive status, salary in escrow, Chicago Board of Health. (Director, Division of Adult Health and Aging and Heart Disease Control Program.) ("Dr. Stamler Placed on Inactive Status By City Health Board", *Chicago Sun-Times*, July 20, 1967, p. 8.)

TREATMENT OF ATTORNEYS

During the hearings held in Chicago in May, 1965, counsel for plaintiffs were physically mistreated and threatened with forcible removal from the hearing room. In previous hearings, other lawyers in other cities have been verbally and physically mistreated, impairing the witness' right to assistance of counsel. For example:

San Francisco, 1953

Following is a statement made to the Committee by attorney Robert Treuhaft:

"Mr. Treuhaft: I am obliged to appear before this committee without assistance of counsel, Mr. Tavenner, because of the fact that the repressive activities of this committee have made it impossible for me to secure the assistance of attorneys of my choice. This is a serious charge for a lawyer to make. I am compelled, however, to make it because the state of affairs that I have found to exist in this regard is truly shocking.

"A month ago I received a subpena calling for my appearance before this committee. My law partner and I have been, for many years, and are now, general counsel for the East Bay Division of Warehouse Union Local 6, ILWU, a labor organization which is one of the principal targets under attack by this committee. In fact, I am sure this was well known to the committee's investigators, and I cannot down the suspicion that my representation of this union had something to do with the fact that my law partner and I are the only East Bay lawyers subpenaed before the committee at these hearings so far as I know.

"I readily agreed to represent four East Bay members of this union as their attorney, who likewise

were subpenaed, despite the fact that I, myself, had been subpenaed as a witness.

"Upon receipt of my subpena I immediately began to make diligent efforts to secure counsel to represent me. I compiled a list of the 7 leading East Bay lawyers whom I would want to represent me because of their known ability in their profession and because all of them had from time to time, shown themselves to be champions of the right of advocacy. All had a sound understanding of due process of law and of the other constitutional rights and immunities which are daily trampled upon by this committee.

"And I would like to say that in making these references to certain members of this committee I do not wish to reflect upon Congress as a whole, as some members of this committee have, by making accusations by inference against one of their own members.

"I have respect for elected Members of Congress, and I would not attack them by imputation or inference if I didn't know the facts.

• • •

"The first lawyer, whom I will call lawyer No. 1, holds high office in the Alameda County Bar Association. When I first approached this lawyer, he told me that he could see no reason why he could not represent me. The next day, however, he informed me that he felt that he could not do so because of the controversial nature and the publicity attendant upon hearings before this committee and because of his position in the county bar association.

"The second lawyer I consulted out of this list, lawyer No. 2, is a former judge who has an active practice on both sides of the bay. I discussed with him the position which I intended to take before this commit-

tee; that is, to uphold the Constitution and to rely upon the first and fifth amendments to the Constitution as they might apply to every question that this committee might put to me.

"This attorney, who is highly placed in the bar, agreed fully with me in principle and stated that it was his opinion that my decision was sound and wise. He told me that he would like to represent me.

"After conferring with his associates, however, he called me in again, and he said that he was very sorry that he could not because representing me with the attendant publicity or representing any witness before this committee would involve financial hardship. He said that he regretted very much to give me this answer because we have been on friendly terms. He said to me, although he is a well-established lawyer, and older than I am, 'Why don't you find some older lawyer, someone who is in a better financial position, to take this risk?'

"The third lawyer I went to see and offered a retainer to represent me before these hearings was an older lawyer; and he was a better financially established lawyer so far as I know. He formerly held high office in the American Bar Association, and he, too, has been a champion of the right of advocacy. He told me, 'Try to find a younger lawyer. The activities before this committee would be too strenuous,' he thought, the publicity would be harmful.

"The fourth lawyer I went to is a leading criminal lawyer in the East Bay. We have been on very friendly terms, and he readily agreed to represent me without any hesitation at all. When I offered him a retainer, he said that he would not accept a retainer from a fellow lawyer. He took the subpoena, and we pro-

ceeded to discuss the position I was going to take, and he agreed with me fully that anybody who had represented unpopular causes as a lawyer, as I have, would face grave dangers in answering any questions put by this committee. Three days ago I—I consulted him 2 weeks ago—3 days ago, the day before—3 days before I was supposed to come here, he called me, and told me that his partner had just returned from out of town and had learned that he had undertaken to represent me. He said that his partner represented a bank, and that his partner felt that the attendant publicity would be so harmful to them that he insisted that they could not represent a witness before this committee. He told me this with very personal regret. He also expressed the view—his partner did—that any attorney who represented a witness before this committee might find himself in a position where he was persecuted by other governmental agencies, as was Vincent Hallinan, against whom reprisals were taken, because he had the courage and temerity to represent a client who, in some eyes, was considered unpopular.

"Lawyer No. 5 is one of the most distinguished members of the bar of Contra Costa County. He has held high office in the bar association there, and he is a leading lawyer in every sense of the word. He has also been a fighter for the right of advocacy. He told me with very great regret that he had discussed with some of his corporate clients the advisability or his intention to represent a witness before this committee. These clients told him that they would consider it an unfriendly act if he were to represent a witness before this committee. He said that although he was well established, he had very high overhead and that he didn't want to subject his organization to the

financial hardship and risk of losing clients that would be involved in representing anyone before this committee. I told him that I intended to take this matter up with the bar association and also to make a statement to this committee on my experiences in attempting to obtain counsel, and that I intended to keep the names of the individuals that I had consulted confidential. He said, 'Bob, a fact is a fact. I feel rotten about telling you what I have to tell you, but a fact is a fact; you state the facts, and I authorize you to use my name and to give the reasons that I have given you.'

"This man had real courage.

"Mr. Scherer: He didn't appear, though, did he?

"Mr. Treuhaft: No; he authorized me to say that he couldn't appear because these slanderous accusations by committees like this made it dangerous financially.

"Mr. Scherer: That is the man you say had real courage?

"Mr. Treuhaft: Yes; he had real courage, and all of these lawyers that I named had real courage. I went to them because they were courageous. I am not condemning nor criticizing the lawyers. I am condemning this committee for trying its cases in the newspapers and over the radio. I am condemning this committee for depriving me of right to counsel by its slanderous attacks, attacks by inference, which even repel and revolt some of the Democratic members of this committee when they saw the performance that was put on today with respect to a Member of Congress.

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"I also consulted a couple of other leading lawyers in the same category. These lawyers had reasons

which I respect, special reasons which I respect, for not wanting to be in this particular position at this time.

"However, their position was also connected with the fear of adverse publicity that would be attendant upon representing as counsel somebody before this committee.

"Now, the canon of ethics of the American Bar Association, as I think Representative Moulder has referred to, states, and this is law for lawyers, that no lawyer shall, for reasons personal to himself, reject any cause because it is unpopular. All of the lawyers that I consulted did reject this cause for reasons personal to themselves, but for reasons created by the hysteria engendered by this committee in the public mind, the fear that anybody who appears before this committee is labeled as a spy or something subversive, and that the taint may rub off onto the lawyer." (H. 77, pp. 3330-3.)

Michigan, 1954

An attorney was ejected from the hearing room because he attempted to read a prepared statement on behalf of his client. (H. 82, p. 5069.)

Washington, D.C., 1954

"Mr. Clardy: Well, I must say the chair is moved to say that today I have seen the worst type of legal advice given to witnesses appearing before us that I have ever heard before in all the time I have been on the committee." (H. 82, p. 5291.)

Charlotte, 1956

Eight of the nine witnesses represented by Rhoda Laks, a New York attorney, were asked in detail how they met and came to retain her. (H. 96, p. 3547, 3573, 3577, 3590,

3603, 3615-6, 3626, 3627-8.) Committee counsel asked one witness (H. 96, p. 3626):

"Can you tell this Committee and the people of this community while you are in a public session whether or not your counsel, Miss Laks, was sent here by the Communist conspiracy to tell you what to do?"

Los Angeles, 1956

Mr. Arens (Committee counsel), addressing Mr. John Porter, counsel for several witnesses:

"Comrade Porter, let's not have any further outbursts from you." (H. 107, p. 6768.)

"Mr. Arens: I suggest that Comrade Porter be admonished that if we have further outbursts of this kind he will be removed from the room." (Id., p. 6841.)

"Mr. Arens: Comrade Porter, you just read the rules on the ethics before this committee, and content yourself with that. We will take care of the proceedings here.

"Mrs. Doran [witness]: You said everyone would be courteous. My counsel's name is Mr. Porter, P-o-r-t-e-r.

"Mr. Arens: He has been identified as a comrade. One man was identified as a doctor of philosophy. So we called him a doctor. This man has been identified as a comrade.

"Mrs. Doran: For the record and in order to protect myself, I refuse to answer the question, if I can still remember it, by citing the first and fifth amendments. And I want everyone here to remember that my counsel's name is Mr. Porter. And I believe that is the way we address each other in this country.

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* See also H. 43, p. 1785; H. 82, p. 5448; H. 107, p. 6774.

"Mr. Arens: Do you address him in any other capacity any place else besides in public session?

"Mr. Porter: Just a minute.

"Mr. Doyle: Just a minute.

"Mr. Porter: I rise to a point of personal privilege, and charge that counsel is violating—

"Mr. Arens: I suggest that counsel submit himself to an oath if he wants to engage in these proceedings with reference to whether or not he is a comrade or, else, that he restrain himself and read the canon of ethics of the American Bar Association here, which, among other things, set high moral standards for practitioners of the law who are sworn to uphold the Constitution of the United States." (H. 107, p. 6849.)

Witnesses were asked if they knew their attorney, Mr. John Porter, was a member of the Communist Party. (H. 107, pp. 6698-99.) When one of the witnesses, Josephine Yanez Van Leuven, refused to answer this question, the Committee interrupted her testimony and called a friendly witness (Anita Schneider) who was asked:

"Mr. Arens: While you were in the Communist Party at the behest of the Federal Bureau of Investigation serving your Government, did you know a Communist by the name of John W. Porter?"

The witness answered in the affirmative and identified Mr. Porter. The Committee then resumed the questioning of Miss Van Leuven. (H. 107, pp. 6698-99.)

Three attorneys were ejected from the hearing room while their clients were testifying. The Committee nevertheless attempted to continue with the testimony. (H. 107, pp. 6771, 6851, 6859.)

When witness Carlisle was testifying, Committee counsel asked:

"Mr. Arens: Aside from any relationship of attorney and client, do you know or have you ever known as a Communist a person by the name of Robert L. Brock?" (H. 107, p. 6705.)

In the ensuing colloquy, the following occurred (H. 107, p. 6706):

"Mr. Arens: Have you [attorney Brock] ever been a member of the Communist Party?

"Mr. Brock: I am not under oath and I am not discussing the topic with you. Counsel's conduct is the most contemptible I have seen in a court, much less a hearing. You know it, Mr. Doyle [Committee member]. You know this is a theatrical thing designed to catch the press.

"Mr. Doyle: I would suggest this, as long as you have designated committee counsel as a liar—

"Mr. Brock: It is clear he is.

"Mr. Arens: Then stand up like a man and submit to an oath and tell the committee whether or not you have ever been a member of the Communist Party."

The Board of Governors of the State Bar of California conducted an official investigation into this hearing, and rendered the following report, published at 32 Journal of the State Bar of California, March-April, 1957, 117:

STATEMENT OF THE BOARD OF GOVERNORS

Through press reports and communications from several members of the bar the attention of the Board of Governors of the State Bar of California has been called to incidents occurring at a recent public hearing in Los Angeles, California, of a subcommittee of the Committee on Un-American Activities, the House of Representatives, U. S. Con-

gress. The Board has reviewed a reporter's transcript of that hearing and has heard a tape recording of the proceedings. The announced purpose of the hearing was to investigate opposition to the McCarran-Walter Immigration Act.

From the transcript and recording, the following facts appear:

1. Several witnesses were interrogated by the [sub]committee's counsel* as to whether they were or ever had been members of the Communist Party.

2. Each of the witnesses was represented by counsel.

3. Counsel appearing for the witnesses were not permitted to address the Committee or to make objections to the manner in which the proceeding was being conducted; but counsel were repeatedly told that "their sole and exclusive right was to advise their clients."

4. Several witnesses were asked if they knew as a Communist one of the lawyers appearing. That lawyer, apparently, was *not* one of the witnesses whom the Committee intended to call and interrogate.

5. The interrogation of one witness was interrupted so as to permit the hearing of the testimony of an under-cover member of the Communist Party. This under-cover member, in response to a question put by the [sub]committee's counsel calling for such an answer, testified that she knew one of the attorneys appearing for another witness as a Communist. Thereafter the attorney so identified was referred to by the [sub]committee's counsel as 'Comrade.'

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* Mr. Richard Arens, committee staff member who acted as counsel for the subcommittee in Los Angeles.

6. Counsel who insisted on making an objection for the record were ejected from the hearing room.

7. Counsel appearing for the witnesses were insistent upon their position and upon their right to make appropriate objections. They were not, however, disrespectful, unruly or boisterous.

This Board has heretofore affirmed that the right of a person to counsel requires public acceptance of the correlative right of a lawyer to represent and defend, in accordance with the standards of ethics of the bar, any client without having imputed to him his client's reputation, views or character. A similar affirmation has been made by the American Bar Association.

The right to be represented by counsel necessarily involves freedom of choice on the part of the client. Conduct on the part of any tribunal before whom a lawyer is entitled or permitted to appear, which attacks a lawyer's reputation or otherwise subjects him to obnoxious personal consequences, inevitably deters lawyers from accepting employment to appear before such tribunals. Thus the right to independent counsel of the client's own choice is seriously impaired.

It is the duty of every lawyer, to the faithful discharge of which he takes an oath, to abstain from all offensive personality.

In the opinion of the Board of Governors the proceedings of the [sub]committee and the conduct of the [sub]committee's counsel, to which reference is made above, were improper and lacking in the dignity and impartiality which should govern the conduct of agencies of the United States; they resulted in grossly offensive personality directed at counsel for witnesses; and they were of such a character as

to pose a threat to the right to appear by counsel and to the proper independence of the bar. It is, therefore,

RESOLVED: That copies of this statement be transmitted to the Speaker of the House of Representatives of the United States; to the Chairman and the Counsel of the House Committee on Un-American Activities; and to each Congressman and Senator from the State of California.

IT IS FURTHER RESOLVED that a copy of this statement be transmitted to the President of the American Bar Association with the request that the matter be appropriately considered by that Association with the end in view of formulating proposals to the Congress for a system of committee procedure which will adequately protect the right of witnesses and of counsel appearing for witnesses.

San Francisco, 1957

Representative Scherer attacked the Statement of the Board of Governors, quoted above, as "unwarranted and intemperate," and went on:

"Pseudo-left-wing liberals, who are always interested in protecting the sacred rights of the Communists who appear before our committee, were strangely silent about these demonstrations against the committee.

"You learn to expect this treatment from the agents of the Kremlin. You are shocked and disheartened when it comes from the board of governors of a State bar association." (H. 115, p. 1091.)

"The records of the hearings of this committee clearly indict those lawyers who are members of the Communist conspiracy and who have conducted themselves in the manner I have described. What the record does not show is the fact that some of these very lawyers

about whom I have been complaining have violated the basic duty and obligation of a lawyer, namely, to serve the best interests of his client. There have been occasions when it was obvious that it would have been to the best interests of the client to have cooperated with the committee; and yet when that witness employed a Communist lawyer or had an attorney furnished him by the Communist party, he was advised to take the fifth amendment, to his detriment. Why? Simply because the lawyer was serving the Communist Party rather than his client. I have often wondered why bar associations have failed to act in such cases." (H. 115, p. 1095.)

New Haven, 1957

Three witnesses were asked when, where and how they had met their attorneys, and whether "counsel [was] secured for you by a person who, to your certain knowledge, is a member of the Communist conspiracy?". (H. 105, p. 5634; see also pp. 5689-90, 5696.)

A witness refused upon advice of counsel to answer a question relating to activities which occurred more than ten years before, whereupon Mr. Kearny, a Committee member, said:

"Regardless of what your counsel says on that score, we have the right to go back. He is giving poor advice if that is the advice of your counsel." (H. 105, p. 5651; see also H. 82, p. 5451; H. 127, p. 751.)

Pittsburgh, 1959

In Pittsburgh, Pennsylvania, in March, 1959, two FBI informers met with other witnesses while attorney Schlesinger advised them prior to their appearance before the Committee. Throughout the hearing the Committee sought to elicit the details of the conference. From the

first reference during the hearing as well as in the Committee's synopsis, the conference was characterized a Communist Party meeting. For example (H. 125, Synopsis p. 313):

> "Mr. and Mrs. Golden [the informers] attended a meeting of the Communist Party only 3 days prior to their appearance before the committee, in which meeting the members of the party discussed the evasion and sophistry they would employ in their appearance before the committee."

Testimony which characterized this professional conference as a Party meeting is found at pages 321-23, 367-69 and 480-81. Subpoenaed witnesses represented by Mr. Schlesinger were also questioned about the conference. (H. 125, pp. 349, 366-67, 369, 500.)

Chicago, 1959

When witness McBain read from a prepared statement, he was asked:

> "Mr. Arens: Was that statement prepared by any person known by you to be a member of the Communist Party?" (H. 128, p. 604; see also H. 105, p. 5639.)

San Francisco, 1960

> "Mr. Scherer: Mr. Chairmar, I have been watching this counsel all day and it is counsel's fault. He has been putting words into the witnesses' mouths, who have testified before this committee, what they should say and how they should bait this committee, instead of advising them as to their constitutional rights. He is the one that should be censured." (H. 137, p. 2153.)

Washinton, D.C., 1962

> "Mr. Scherer: You indicated until you got to Washington that you were going to tell what you knew about Communist Party activities, did you not?

Mr. Cooper: No.

Mr. Scherer: You did not tell our investigator that you would cooperate with the committee? And testify?

(Counsel conferred with witness.)

The Chairman: Let the witness answer the question.

Mr. Cooper: I don't know whether I did or not.

Mr. Scherer: You do not deny that you did?

Mr. Cooper: I don't remember.

Mr. Scherer: You said that you did not need a lawyer. Did you not tell the member of our staff that you did not need a lawyer?

Mr. Cooper: He told me I didn't need a lawyer. I didn't know what I needed.

Mr. Scherer: Did he not ask you who your lawyer was? And you said you did not have a lawyer. You did not have a lawyer last week, when the member of our staff talked to you, did you?

Mr. Cooper: I didn't talk to him about no lawyer.

Mr. Scherer: Well, when did you get a lawyer?

(Counsel conferred with witness.)

Mr. Cooper: What is the pertinency of the question?

The Chairman: Because we are curious to know why you have changed your position, and whether you were advised not to cooperate with this committee after you had told one of our investigators, according to our information, that you would cooperate.

(Counsel conferred with witness.)

Mr. Cooper: I made up my mind to do the only thing I thought was in my rights, to protect myself.

Mr. Scherer: When did you make up your mind to do what you say you are doing now?

(Counsel conferred with witness.)

Mr. Nittle: Mr. Chairman, I ask that the record

note that counsel conferred with the witness prior to responding to this and the prior questions.

The Chairman: I do not think that makes any difference. It is perfectly apparent what is happening here. This man is not answering questions.

Mr. Scherer: His lawyer is answering them for him.

The Chairman: Yes. Proceed.

Mr. Nittle: Did any member of the Communist Party contact you, confer and consult with you, and advise you not to testify before this committee?

Mr. Cooper: I refuse to answer, on the grounds.

Mr. Nittle: Did any person known to you to be a member of the Communist Party advise you to come here and plead the fifth amendment to every question asked of you?

(Counsel conferred with witness.)

Mr. Cooper: I refuse to answer, on the grounds previously stated.

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Mr. Scherer: It seems to me, Mr. Chairman, that Cooper had agreed to testify when he talked to our investigator about his activities in the Communist Party; and then, when the names were published in the Cleveland paper, the names of the witnesses who were subpenaed, it enabled someone from the Communist Party to contact Cooper. They found out that he had been subpoenaed, and then his mind was changed about his intentions.

Mr. Nittle: I might also add, Mr. Scherer, that the witness Cooper had told our investigator, Mr. Wetterman, that Frieda Katz had been to see him.

Mr. Scherer: That was at the time he left the party, about 10 years ago?

Mr. Nittle: Yes, sir.

Mr. Scherer: But what I am saying is that just recently he talked to Mr. Wetterman, and indicated, or not only indicated but said, that he would come before this committee and tell this committee about his associations in the party and what he knew about Communist Party activities in the Cleveland area. And that has just been recently. It was subsequent to his conversation with Mr. Wetterman that his name appeared, along with others, as a witness who had been subpeneaed before this committee today, and it is apparent to me what happened.

He does not come here with a Cleveland lawyer. He comes here with a Washington lawyer from the American Civil Liberties Union. Instead of keeping his promise or fulfilling his intentions, he refuses to testify; and it is apparent that after his name was published, somebody from the Communist apparatus got in touch with him and changed his mind." (H. 153, pp. 1014-16, 1027.)

Attorney Clement T. Cooper (not the same as the Mr. Cooper referred to above) appeared at this hearing on behalf of a client, and was engaged in the following colloquy:

"Mr. Nittle: Will counsel please identify himself for the record.

Mr. Cooper: My name is Clement Theodore Cooper. I am a member of the State Bar of Michigan and the District of Columbia. I am representing Mr. Tenenbaum through the American Civil Liberties Union as a volunteer attorney.

The Chairman: May I ask you whether or not you know that the purpose of your organization is the abolition of this committee, its stated purpose in its literature?

Mr. Cooper: I am not at liberty, Mr. Chairman, to give any information on that point, inasmuch as I am not a spokesman for the American Civil Liberties Union.

The Chairman: No, you are not a spokesman. I just wondered if you know that is the purpose of your organization and whether or not one of the things it is doing to bring this about is preventing witnesses from testifying.

Mr. Cooper: With all due respect to the chairman, I don't believe that that is a correct connotation or interpretation of the American Civil Liberties Union practice. Basically we are concerned with protecting the civil liberties of any persons where those liberties have been brought into question.

Mr. Scherer: Chiefly Communists, though, is it not?

Mr. Cooper: I would respectfully object to that question because, basically, I am not here as a subpenaed witness; number two, that it is repugnant to the very purpose why I am here. The American Civil Liberties Union does not support any particular movement. It is concerned with protecting the civil liberties of all persons. We do not inquire into the political or social beliefs of any person. We are concerned with his legal rights and his protection.

The Chairman: What about my civil liberties when I attempt to speak in New York and Los Angeles and have mobs there to try to prevent me? Does your organization ever raise its voice? I have the right to speak under the Constitution, just as well as your clients or other Communists. I never heard you raise your voice about that.

Mr. Cooper: That would be very true, Mr. Chairman. However, it is only a case where you seek the

help of the American Civil Liberties Union. In this case, Mr. Tennebaum has sought the American Civil Liberties Union help and that is the reason why I am here and that is the reason why we are part of these proceedings.

The Chairman: All right.

Mr. Scherer: The American Civil Liberties Union has appeared amicus curiae on behalf of Communist causes and individuals time and time again in courts in this country without any request when the Communists (under indictment) were represented by their own lawyers. You have voluntarily gone into court in support of Communist causes when you were not asked.

Mr. Cooper: It is not because of blanket association with communism, socialism, or any other type of ideology inasmuch as we are concerned with the protection afforded under the Constitution of the United States, these civil liberties.

Mr. Doyle: In other words, it is to protect the alleged liberties of a man or woman that is known to be part of the international Communist conspiracy to destroy this form of government.

Mr. Cooper: I would not go so far as to say that.

Mr. Doyle: The Supreme Court has said that is the purpose of the Communist Party of the United States—you know that—on June 5.

Mr. Cooper: I am quite aware of the Supreme Court ruling but we are departing from the very purpose of the American Civil Liberties Union, which was the original question asked by the chairman and by other members of the committee." (H. 153, pp. 1143-4; see also H. 174, pp. 1330-1.)

* * *

"Mr. Heller: Norman Heller, a member of the Bar of the District of Columbia, a volunteer for the American Civil Liberties Union.

"The Chairman: Mr. Heller, may I ask you: Are you aware of the type of people that you are representing here?

"Mr. Heller: I understand what they have been accused of by other people and I also understand that they have certain rights which I have advised them of.

"The Chairman: We understand that entirely, but this last witness quite obviously was connected with the international Communist movement. I am interested in knowing whether or not your organization has adopted a policy of representing people who are identified with this movement. We are not complaining about your appearance here. What I am interested in knowing is whether or not your organization has adopted a policy of identifying itself with people who have been identified under oath as members of the international conspiracy." (H: 153, p. 1136.)

Washington, D.C., 1966

An attorney was forcibly removed from the hearing room when he attempted to register an objection to a question put by the Committee counsel concerning his client. (H. 171, p. 1027.) When the Committee Chairman requested that the attorney be returned to the hearing room, it was learned that he was already in jail.* (H. 171, pp. 1029-37.) Subsequently, seven attorneys for other subpoenaed witnesses withdrew, and in a prepared statement read by one of them they said (H. 171, p. 1065):

". . . although we have been able to bail Mr. Kinoy out of jail, and he stood beside me an hour ago, the brutal treatment offered him has all but destroyed any chance we may ever have to represent our clients

* The attorney's conviction for disorderly conduct was reversed in *Kinoy* v. *District of Columbia* (D.C, Cir. July 29, 1968, Docket No. 21262).

adequately. Attorneys cannot function in an atmosphere of terror and intimidation. The fundamental constitutional right to be represented by counsel means counsel free from brutalization and terrorization."

The National Lawyers Guild

In the Committee Report *Communist Legal Subversion, The Role of the Communist Lawyer* (H. R. Rep. No. 41, 86th Cong. 1st Sess. (1959)) the Committee describes The National Lawyers Guild as "an important focal point in the Communist campaign of legal subversion," operating as a " 'legal' bulwark of the Communist Party, intervening in legal proceedings in behalf of Communist defendants and lobbying against executive and legislative programs which would curb the effectiveness of the Communist conspiracy in this country." (p. 16.)

In an earlier report on the Guild, the Committee described the Guild as being "cited as a Communist front" which "is the foremost legal bulwark of the Communist Party, its front organizations, and controlled unions," which "since its inception has never failed to rally to the legal defense of the Communist Party and individual members thereof, including known espionage agents." *Report on the National Lawyers Guild,* (H. R. Rep. No. 3123, 81st Cong., 2d Sess., (1950)).

Numerous attorney-witnesses, many of whom had represented other witnesses before the Committee, have been questioned concerning their membership in the Lawyers Guild. For example, see H. 82, p. 5449; H. 100, p. 5074; H. 105, p. 5762; H. 115, p. 1302-3; H. 115, pp. 1339-1341; H. 157, pp. 556-7. See also H. 77, pp. 333-4 ("Citations" on the National Lawyers' Guild read into the record).

EXPOSURE

The Committee engages in exposure for exposure's sake.

During the debate on the resolution first creating and authorizing the Committee's predecessor, the House of Representatives Special Committee on Un-American Activities, Rep. Martin Dies, the Committee's first Chairman, stated (84 Cong. Rec. 7570 (1938)):

> "I am not in a position to say whether we can legislate effectively in reference to this matter [un-American activities], but I do know that exposure in a democracy of subversive activities is the most effective weapon that we have in our possession. Always we must keep in mind any legislative attempt to prevent un-American activities, might jeopardize fundamental rights far more important than the objective we seek, but when these activities are exposed, when the light of day is brought to bear upon them, we can trust public sentiment in this country to do the rest."

After the Committee became a standing committee of Congress in 1946, other members, congressional allies, and staff personnel made similar statements. For example:

Rep. Donald Jackson—1951, 1953

> "The Committee on Un-American Activities has a tremendous job to do. It has the job of spotlighting those whose activities are subversive in nature and those whose activities and whose public statements have made them suspect." (97 Cong. Rec. 7180 (1951).)
>
> • • •
>
> "The work of the House Committee on Un-American Activities is one designed to give the American people a continuing picture of the Communist Party at work, to expose its propaganda efforts, and to inform citizens of organizations and individuals dedicated to the destruction of the American Republic. Its investigations are confidential only to the extent necessary to

determine facts. Its hearings are public, open to all informational media, and its millions of publications go directly to the people of this Nation." (99 Cong. Rec. 2019 (1953).)

(See also H. 77, p. 3336.)

Rep. Harold Velde—1952, 1953

"The principle objectives of the committee, during this Congress, have been to expose subversive elements in the motion-picture industry and in essential defense areas in the United States, to expose the complicity of American Communists and their part in the destruction of freedom in the Far East, and to expose the manner in which Communists and espionage agents have gained employment in the Federal Government.

* * *

"I want to assure Members of this body that our committee will exhaust every effort to make a full disclosure not only of the individuals named before the Committee as having engaged in espionage while in Government employment, but to expose those important individuals who made it possible for them to become employed in the Government." (98 Cong. Rec. A4662 (1952).)

* * *

" . . . I say that I feel Communists should and will be ferreted out and reported to the Congress and to the people, wherever they may be found. . . . " (99 Cong. Rec. 2130 (1953).)

Rep. Morgan M. Moulder—1953

"The Committe on Un-American Activities has and will continue to expose communism. It has an excellent record of public service in exposing and warning the American people of the evils of communism and we must not permit baseless propaganda to injure the work of the Committee." (99 Cong. Rec. 1985 (1953).)

* * *

" . . . I am sure that all members of this committee are equally anxious to expose communism and com-

munistic activity wherever it may exist . . . ." (H. 77, p. 3316.)

Rep. Kit Clardy—1954

"Unfortunately the University and the other schools do not possess the power of subpoena; they cannot place witnesses under oath and subject them to pains and penalties if they should refuse to answer questions honestly and truthfully. Where the committee comes in is that it is in a position to do that and to lay out before the institutions of learning facts that we develop in these hearings. From there on out it is up to those institutions to do whatever, in their judgment, is wise and proper. We have made no effort to dictate to any of these schools, nor will we, as to what they should do following the hearings that we may hold. In this instance, of course, the committee is intensely gratified to know that the heads of various institutions in this State have been alert to the problems our hearings have developed and have taken swift, prompt, and I think, effective action." (H. 82, p. 5432.)

Rep. Francis E. Walter—1955, 1956, 1961

"Unlike most congressional committees, in addition to the legislative function we are required to make the American people aware if possible the extent of the infiltration of Communism in all phases of our society." (*U.S. News & World Report*, Aug. 26, 1955.)

• • •

". . . I think these hearings have been a great success, because after all, while we have not forced anyone to tell what we hoped some of them would tell, nevertheless, charges that have been made have gone unanswered." (H. 96, p. 3655.)

• • •

"For 30 years congressional committees have been investigating Communist and subversive activities in the United States. For 25 years, the House Un-American Activities Committee has been exposing the Communist conspiracy in our midst without fear or favor. This committee has incurred the bitter hatred of Com-

munists and its fellow travelers because they have been successful in smashing communism wherever it raised its head in America, deporting alien Communists, driving Communists out of the Federal, State and city governments, including our schools, and finally having the party outlawed and its members required to register as agents of a foreign power.

"The Communist campaign against the Un-American Activities Committee is full of sound and fury, and fearing, but it is as futile as New York snowflakes in July and rightly so as the American people overwhelmingly support the watchdog efforts of the House Un-American Activities Committee to expose and combat communism through the Nation." (107 Cong. Rec. 21705 (1961).)

* * *

"It is most important that we remember, however, that most of the extensive information the Federal Bureau of Investigation collects on the operations of the Communist conspiracy in this country, for a number of good reasons, is kept absolutely secret. For the most part, it is never revealed to the public except in the case of a court trial.

"Because the FBI is purely an investigating agency and has neither the legislative nor the informing function of a congressional committee, it, alone, cannot do a thorough job of protecting this country from communism." (107 Cong. Rec. 6207 (1961).)

* * * *

"The Chairman: Miss Barkaga, I would like to say to you what I said yesterday to Mr. Miller, what you did is not an easy thing. What we are doing is very distasteful to us.

"As elected representatives of the people, it is nauseating to be compelled to sit here and hear our fellow citizens take refuge behind an amendment of the Constitution which is designed to protect people.

"All of us have a job to do, and we hope that the result of our labors will be an awareness on the part

of all the American people so that they, without government activities, can deal with this problem and will deal with it.

"The only reason why there is any significant group of Communists in the United States is because the people have been unwilling to throw them out of decent organizations.

"I trust that, as a result of the work which you have been doing, the American people will decide that they will do something about this very serious problem." (H. 114, p. 972.)

Rep. Edwin E. Willis—1956, 1967

"Secondly, we have, I believe, brought to the attention of the people of this area the serious nature of this conspiracy, and the hard fact of its present existence in various fabrics of our society. This problem is a problem not only for the Federal agencies of our Government, but it is a rightful concern of all loyal Americans.

"Third, we have, I hope, struck another blow at the conspiracy by bringing a few more Communists to the light of day." (H. 105, p. 5767.)

* * * *

"The subversive activities of the Communists should be a primary concern of the American people, and we on the committee consider it our main duty and responsibility to keep the public informed by focusing attention on Communist activities endangering the welfare of our Nation." (113 Cong. Rec. 14633 (1967).)

Rep. Gordon Scherer—1957

In October, 1957, a witness objected to being asked to identify an application for employment because he felt the sole purpose of the question was to lead to an exposure of his beliefs and associations. Representative Scherer responded (H. 117, p. 1683):

"Witness, it will lead to an exposure of you being a colonizer for the Communist Party in this area. It has nothing to do with your beliefs. . . ."

Rep. Bob Casey (non-member)—1961

"The Un-American Activities Committee has effectively unmasked those among us who have succumbed to this ideology, and who are the enemies of our people, our economic system and our Nation." (107 Cong. Rec. 2984 (1961).)

Rep. Thomas J. Lane (non-member)—1961

"The House Committee on Un-American Activities is ever alert to this peril. Through its patient, searching, and well-documented investigations, it has exposed both these organizations in their devious methods. The information gained as a result of these investigations has helped the American people to understand how the Communist conspiracy works.

* * *

". . . We must defend ourselves against the insidious practices and one of the most potent means is to unmask those individual organizations that serve as a front for treason." (107 Cong. Rec. 2984-85 (1961).)

Rep. Thomas Abernethy (non-member)—1961, 1965

"I do not know of any tribunal, court, branch or segment of our Government which has contributed more to ferreting out the anti-Americans than the Committee on Un-American Activities. In instance after instance it has turned the light of day on the un-American activities of many un-American people." (107 Cong. Rec. 2987 (1961).)

* * *

"The prime objective of the Un-American Activities Committee is to expose communism wherever and whenever it can be found in the United States." (111 Cong. Rec. 674 (1965).)

Rep. Harlan Hagen (non-member)—1961

"It has exposed to public knowledge the identity of persons who have been members of subversive apparatus in this country. This exposure cannot be ac-

complished at the national level by any agency outside of the Congress." (107 Cong. Rec. 2988 (1961).)

Rep. James C. Davis (non-member)—1961

"The House Committee on Un-American Activities has devoted its efforts principally to uncovering and exposing Communist activities, infiltration, and subversion." (107 Cong. Rec. 3804 (1961).)

Rep. Clyde Doyle—1964

"I think that the women who are not Communists who are opposed to communism, are entitled to know who in the organization [Women Strike for Peace] is a Communist and whether or not it has been infiltrated by Communists, and, if so, where they are lodged. That is the purpose of some of these questions." (H. 155, p. 2092.)

Rep. Richard Ichord—1964

"It is the committee's hope that the information produced here will have a further use and that it will help to, that is, it will help to keep the American people generally, and the people of this area, alert to the fact that communism is a very real problem and danger, both here at home as well as abroad; that it must be fought here as well as abroad. Here it must be fought fairly, intelligently, and effectively, if our freedoms as Americans are to be preserved. (H. 163, p. 1923.)

Rep. Joe Pool—1968

"The tremendous work the Committee has done in the past few years in exposing militant pro-Peking Chinese Leftist Communists, who are on the campuses of many of our universities here in America."

* * *

"I think that the House Committee on Un-American Activities is actually the 'court of last resort' to the people of America to come and find out what's going on in the way of infiltration by enemies, the Communists and by other groups who would destroy America as we know it." (Manion Forum, Weekly Broadcast No. 718, July 7, 1968.)

The Committee attacks organizations.

The Committee has repeatedly used its powers and influence to attack a variety of organizations through hearings or reports relating directly to them, asking defamatory questions or making defamatory statements regarding them in hearings, and issuing subpoenas to the individual or representative of the target organizations.

Committee targets include at least five categories: (1) those which are (or the Committee sees as) actually engaged in the work of limiting the powers of or abolishing the Committee; (2) those which act to protect individuals against the violation of their rights by, or as a result of, the Committee; (3) those which oppose security legislation and agencies other than the Committee; (4) other political and religious organizations; and (5) labor unions.

Examples follow:

National Association for the Advancement of Colored People

In 1963, information concerning leaders of the NAACP was placed into the Congressional Record by Rep. E. C. Gathings, who stated that he obtained the information from the files of the Committee. (109 Cong. Rec. 13591-13621) (1963).*

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* The Committee Reports repeatedly emphasize the wide use to which Committee files are put by members of Congress and other governmental agencies. See, *e.g.*, Committee on Un-American Activities *Annual Report for the Year 1965,* 89th Cong., 2nd Sess. (Comm. Print 1966) p. 61; *Annual Report for the Year 1966,* H.R. Rep. No. 460, 90th Cong., 1st Sess. (1967) p. 40. See pp. 139-146, *infra.*

American Association of University Professors

The American Association of University Professors has frequently criticized universities and colleges for firing teachers who refuse to testify before the Committee. See pp. 71-73, 75, *supra*. Chairman Walter gave the following response to the AAUP censuring of George Washington University (108 Cong. Rec. 23065 (1962)):

> "In view of the record of the AAUP, I believe that every Member of this House should be pleased that a university in our Capital has won the censure of the organization. Had it won praise from the American Association of University Professors, there would be cause to be concerned about George Washington University. I, for one, wish to take this opportunity to extend my congratulations to the university for the action it took in the case of Professor Reichard and to assure it that its censure by the AAUP will in no way discredit it in the eyes of thinking Americans." (See also H. 148, p. 1827.)

American Civil Liberties Union

The Committee has made a number of derogatory remarks about the American Civil Liberties Union. At least twice the Committee has quizzed attorneys representing witnesses on behalf of the ACLU. (H. 153, p. 1143-44, set forth above at pp. 93-95; H. 174, p. 1330-31.)

Southern Conference for Human Welfare

In 1947 the Committee issued a denunciatory *Report on the Southern Conference for Human Welfare* stating that this civil rights group was being used in "devious ways to further basic Soviet and Communist policy." (H.R. Rep. No. 592, 80th Cong., 1st Sess. (1947).) In a detailed article analyzing the report, Prof. Walter Gelhorn concluded that the report " . . . is a document which dis-

credits its authors rather than the organizations it sought to destroy. . . . From semi-truths the Committee has drawn conclusions that would be strained even if the factual assertions of the report were beyond challenge. The report demonstrates, not that the Southern Conference is a corrupt organization, but that the Committee has been intolerably incompetent or designedly intent upon publicizing misinformation." (Gelhorn, "Report on a Report," 60 Harv. L. Rev. 1193 (1947).)

National Council of Churches

The National Council of Churches was the target of the Committee in a hearing considering the retraction of an Air Reserve Training Manual attacking the Council. In questioning Secretary of the Air Force Sharp, Mr. Arens asked:

> "If the facts had been developed by investigators who had checked the records of the Committee on Un-American Activities and other authoritative sources, and if the facts did reveal that a very substantial number of the leadership of the National Council of the Churches of Christ in the U.S. had Communist-front records and were infiltrating in churches and educational institutions, would you nevertheless have repudiated the statements in the manual?" (H. 135, p. 1299.)

Mr. Arens later stated:

> ". . . the leadership of the National Council of Churches of Christ in the United States of America had hundreds or at least over 100 affiliations with Communist fronts and causes. Since then we have made careful, but yet incomplete checks, and it is a complete understatement. Thus far the leadership of the National Council of Churches of Christ in

> America, we have found over 100 persons in leadership capacity with either Communist-front records or records of service to Communist causes. The aggregate affiliations of the leadership, instead of being in the hundreds as the chairman first indicated, is now, according to our latest count, into the thousands, and we have yet to complete our check, which would certainly suggest, on the basis of the authoritative sources of this committee, that the statement that there is infiltration of fellow-travelers in churches and educational institutions is a complete understatement." (H. 135, p. 1303.)

Mr. Arens went on to state names of persons in some way connected with the Council, listing the number of communist "fronts and causes" with which they were allegedly associated. (H. 135, pp. 1303-04.)

Women Strike for Peace

In 1962 the Committee held hearings investigating Women Strike For Peace, a national women's group concernned with arms control and peace.

In his introductory statement at the hearing, Rep. Doyle stated that "excessive concern with peace serves the Communist cause." (H. 155, p. 2065; quoted in full, *infra*, p. 123.) The Committee charged that a few of the women had been connected with left-wing activities in the 1930's and 1940's. On this basis, Doyle concluded that, "Women Strike For Peace is being infiltrated by Communists very definitely." (H. 155, p. 2167.)

See also Committee for the Protection of the Foreign Born, H. 107, pp. 6380, 6644, 6806 and 6818; Committee to Secure Justice for the Rosenbergs, H. 93, entire hearing, and H. 105, p. 5732-33.

United Electrical, Radio, and Machine Workers of America (UE)

Referring to a local hearing scheduled to commence only four days before an NLRB election at the Magnavox plant in Ft. Wayne, Indiana, Chairman Walter is quoted as saying that he postponed the hearing until four days after the election "only after it was feared that false and malicious charges made against the Committee by the UE might result in this Communist-dominated union continuing as bargaining agent in this vital defense plant." (Ft. Wayne, *News Sentinel,* Feb. 28, 1955, p. 1.) In Richmond, Indiana, a local paper had reported earlier that members of the Committee said they were "out to break" the UE local at Magnavox. ("2-Fisted Attack on Red Unions Under Way," *Paladium-Item,* Feb. 15, 1955, p. 1.)

On June 19, 1951, it was reported in the *Baltimore Sun,* that:

> "It can be stated that the basic aim of the forthcoming [Baltimore Committee] hearings is to bring to light the names of Communists in such a way that the labor unions and management can take action to oust them from defense work."*

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* Similarly Rep. Kit Clardy praised workers in two Flint, Michigan plants who retaliated against two fellow workers who had been hostile witnesses before the Committee. Commenting on the ejection of one worker from the Buick plant and intimidation of another causing him to leave Chevrolet, Clardy said, "This is the best kind of reaction there could have been to our hearing." *Flint Journal,* May 16, 1954.

"Mr. Moulder: And, in further commenting, it is my opinion that organized labor has made every effort and successfully so, to rid itself of Communist influence in this country.

"Mr. Johnson: That is true.

"Mr. Clardy: Yes, they have; in a great many places. Of course, there are still, as we all know, some places where the

It was pointed out that employers and unions were unable to oust alleged Communists for fear of retaliatory libel actions. "Thus the House Committee intends to bring out evidence which will be privileged against libel action on which Baltimoreans themselves can take action." (*Baltimore Sun*, June 19, 1951, p. 1.)

The Committee has repeatedly subpoenaed national and local leaders of UE and scheduled hearings to coincide closely with NLRB elections, negotiations, strikes, or other internal union activities:

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fight is still going on, and it hasn't reached a complete victory for those who do oppose it. There is no need to go into details, but I am sure you will agree maybe that there are still some sore spots scattered about the Nation in some of the union groups, and we, on this committee are doing our best to try to help those who root them out, as Congressman Scherer suggested to me here." (H. 82, p. 5259.)

* * *

"Mr. Clardy: [I]n these Communist-dominated unions there is a strong feeling of desire on the part of the honest, loyal American workingmen to rid themselves of that subversive influence. 'At the hearing at Detroit four from another union in the State have approached me and asked me if we couldn't render them help in getting rid of the Communist leadership in another union here in the State, and I have had telephone calls imploring the same thing." (H. 82, p. 5564.)

Name	Place	Event	Source
Michael Berescik	Bridgeport, Conn.	Union convention	**Bridgeport Post** July 25, 1947
Joseph Jullianelle	Pittsburgh, Pa.	Election of delegates to Union convention in Cleveland in Sept. 1949	Ingred Jewell in **Pittsburgh Post Gazette**, Aug. 7, 1949; **Pittsburgh Sun Telegraph**, Aug. 9, 1949; regarding Hearing 30
UE leaders	Emporium, Mine Hall, Warren, Pa., and Cincinnati, Ohio	NLRB election	UE, "Operation Intimidation" (N.Y., Undated), p. 12.
(Committee announced an investigation of UE election petition)	Lynn, Mass.	NLRB election, Aug. 16, 1951	**Ibid.**, p. 18.
UE leader	Schenectady, N.Y.	NLRB election, Sept. 1951	UE, "Attacks on UE," (N.Y. undated) p. 2
Herbert Nichol	Baltimore, Md.	NLRB election, July 1, 1951	H. 47, pp. 866-7
Three UE leaders	Flint, Mich.	Three-month strike	**Flint Journal**, Sept. 8, 1954
Three UE leaders	Ft. Wayne, Ind.	NLRB elections in Ft. Wayne and St. Joseph, Mich.	**Ft. Wayne News Sentinel**, Feb. 28, 1955

Commenting on action of subpoenaed local UE leaders in ousting 26 alleged Communists from the local, Committee Counsel Tavenner praised the men for their action saying, "You fellows did a good job," and added that if all other local unions acted similarly "We wouldn't have to pass some of the labor laws we are passing today." (*Bridgeport Post*, July 25, 1947, p. 1.)

During hearings in Pittsburgh, Pennsylvania in 1949* acting chairman Willis inserted into the record and re-

* Rev. Charles Owen Rice, a leader of the Association of Catholic Trade Unions, sought the 1949 hearings investigating the UE in Pittsburgh. ("Probe Tied to UE Election," *Pittsburgh Post Gazette*, Aug. 7, 1949, Sec. 2, p. 1).

ferred to dossiers of 41 individuals in some way connected with UE, nearly all of whom had no relation to Pittsburgh or problems of security there, the alleged subject of the hearing. (H. 125, pp. 425-435, see also p. 405.)

In other instances while questioning witnesses, the committee has referred to UE as "communist dominated and controlled" (H. 125, p. 401), or has asked a witness "why is it that the Communist Party . . . has been so determined to take over or at least endeavor to control the UE?" (H. 61, p. 4323.)

United Packinghouse Workers of America

In Chicago, Illinois, the Committee subpoenaed members of the United Packinghouse Workers of America when they were about to enter negotiations with major packing companies concerning renewal of a three-year contract. (H. 128, p. 516-8.)

International Association of Machinists

At that same hearing Albert P. Dency, chairman of a committee to lift the suspension of a union local, was subpoenaed while the committee was considering the suspension. (H. 128, p. 599-601.)

United Automobile Workers

In Detroit, Michigan, the shop steward of Local 3, UAW, was subpoenaed to testify the day he was running for reelection as steward. (H. 55, p. 2863.)

International Woodworkers of America

In Seattle, Washington, the Committee held a hearing on June 14-19, 1954, during major negotiations throughout

the lumber industry in the area. Strike votes were taking place throughout the week with a general strike scheduled for June 21, 1954. Among those subpoenaed were members of local unions of the International Woodworkers of America, CIO. (*Frontier*, August, 1954, p. 2.) (H. 59, p. 6365-70, 6533-36, 6578-91, 6595-600.)

American Communications Association

During the Pittsburgh hearing mentioned above prior testimony totally unrelated to the Pittsburgh situation was read into the record identifying the ACA as a "communist controlled organization." (H. 125, pp. 392-93, 406-07). In another hearing, in the midst of questioning a physicist who had worked at Minneapolis-Honeywell Plant concerning his knowledge of Communists there, Committee Staff Director Arens made the following gratuitous statement:

> "You might be interested to know, sir, that that organization, the American Communications Association, is now certified as a bargaining agent by the National Labor Relations Board. And if the employers do not bargain with that Communist-controlled organization, they are guilty of an unfair labor practice." (H. 121, p. 2348.)

International Union of Mine, Mill and Smelter Workers

Continuing in the same hearing, Mr. Arens said:

> "You might be interested to know, sir, at the present time while I am talking to you, vital mines of this Nation in the West are serviced by some 80,000 people in the International Mine, Mill and Smelter's Union, which is controlled lock, stock, and barrel by the Communist conspiracy, and if the owners of those mines do not bargain with the conspiracy, they under the present law are guilty of an unfair labor practice." (H. 121, p. 2348.)

International Longshoremen's and Warehousemen's Union

Harry Bridges, President of the International Longshoremen's and Warehousemen's Union, was questioned at great length in a Committee investigation of passports. (H. 127, pp. 666-739.) At the conclusion of the hearing, Rep. Scherer referred to Mr. Bridges as the "head of the communist-dominated Longshoremen's Union." (H. 127, p. 736.) Rep. Scherer inserted into the record a newspaper column entitled "Why Did Bridges Get Red Carpet?" and commencing as follows:

> "During Harry Bridges' recent visit to Rome, the U.S. Embassy there rolled out a carpet for him as red as the politics and philosophies of the Soviet lands he loves so much." (H. 127, p. 738.)

In a subsequent hearing the Committee described Bridges as a "communist agent . . . who, together with other Communists, controls the International Longshoremen's and Warehousemen's Union." (H. 139, p. 1756.)

The Committee attacks those who oppose it or security agencies.

Emergency Civil Liberties Committee

The Committee has devoted an unusually large share of attention to the Emergency Civil Liberties Committee (ECLC), which has as its goals, according to the Committee:

"1. Destruction of the [Committee];

"2. Extinction of the investigative powers of the Congress in the field of subversive activities;

"3. Restriction of important [unspecified] functions of the [FBI] in the investigation of subversive activities; and

"4. Creation of a general climate of opinion against the exposure and punishment of subversion." (*Operation Abolition,* 85th Cong., 1st Sess. (1957), p. 2.)

The Committee devoted an entire report to ECLC. *Operation Abolition,* 85th Cong., 1st Sess. (1957). It referred to it in its *Guide to Subversive Organizations and Publications,* 85th Cong., 1st Sess. (1957) (p. 35), in a superseding "guide" published in 1961, *Guide To Subversive Organizations and Publications,* H.R. Doc. 398, 87th Cong., 2d Sess. (1961) (pp. 69-70), and in the *Annual Report for 1958,* H.R. Rep. No. 187, 86th Cong., 1st Sess. (pp. 34-5). Employing extensive imputation of guilt by association the Committee calls this opponent of its existence a Communist outfit, created by the "Communist conspiracy," a Communist front, and the like.

San Juan, 1959

"Mr. Scherer: . . . [T]here is an organization on the mainland called the Emergency Civil Liberties Committee. That committee is Communist dominated, Communist controlled. Its president is Harvey O'Connor, a dedicated, hard-core, identified Communist. He is now under indictment.

"The Emergency Civil Liberties Committee has followed the Un-American Activities Committee into almost every city in which it has had hearings in the continental United States. In fact, it has come there in advance. Its agent came into Puerto Rico and he is here today. He has been here. He is Clark Foreman.

"His purpose is to come into this community, as he has into almost every community in which this committee has had hearings, and misrepresent the pur-

poses of this committee, to stir up hatred and ill will against the Congress of the United States.

"I consider that man more dangerous and disloyal to the United States than any witness we might question here, and he is not a Puerto Rican.

"I just wanted to make it clear, the purpose of this investigation.

"Mr. Clark Foreman: May I object to this defamation without —

"Mr. Tuck: The gentleman is out of order. If you care to testify, you will probably be summoned.

"Mr. Scherer: I would like, in view of what I have said, to ask our counsel, Mr. Arens, to just tell briefly what this Emergency Civil Liberties Committee is, its history, and what we know about it—this committee which has its representative here and who just violated the rules of this committee by making the outburst in the committee room." (H. 134, pp. 1616-7.) (See also H. 117, p. 1649; H. 121, pp. 2203, 2219.)*

National Committee to Abolish the House Un-American Activities Committee

Likewise, another organization aiming to abolish the Committee has received unusual attention at the hands of the Committee. In the Committee's report, *The Communist Party's Cold War Against Congressional Investigation of Subversion*, 87th Cong., 2d Sess. (1962), a whole section is devoted to NCAHUAC Executive Secretary Frank Wilkinson under the title of "Mr. Abolition." (pp. 1484-94.) Wilkinson is referred to as the "field representative (chief agitator) of The National Committee to Abolish

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* On one occasion the Committee interrupted hearings to read a release by ECLC attacking the Committee, following it with a portion of a broadcast by Fulton Lewis, Jr. attacking ECLC for attacking the Committee. (H. 117, pp. 1622-3.)

For references to officers of ECLC as having been identified as Communists, see H. 123, p. 2804; H. 125, p. 334; and H. 157, p. 751.

the Un-American Activities Committee" (p. 1484), and as "professional agitator Frank Wilkinson." (p. 1488.) The Committee has referred to him as "the notorious Frank Wilkinson". (H. 137, p. 2170.) In one hearing Rep. Scherer stated for the record that "[Wilkinson] is an identified communist," and was "one of the leaders participating in the San Francisco riots." (H. 139, p. 1785.) Wilkinson was subpoenaed twice by the Committee, once in Los Angeles in December, 1956, (H. 107) and again in Atlanta, Georgia, in July, 1958, where he was engaged in work opposing the Committee (H. 122).

Four members of the Supreme Court of the United States concluded that the Committee's purposes in subpoenaing him in Atlanta were improper. (*Wilkinson* v. *United States*, 365 U.S. 399, 429 (1961) (dissenting opinions).) The other justices did not consider the question.

Committee Attacks on Individual Opponents

Detroit, 1954

Rev. Charles A. Hill was questioned as follows:

> "On February 8, 1943, according to the information which the committee has, you signed a petition to Congress to abolish the Dies committee. I raise no question in the world about your right or anyone else's right to express an opinion regarding a predecessor of this committee, or any committee.
>
> "The point I am interested in is, who was it and under what circumstances was the use of your name obtained in that matter, if it was so obtained?" (H. 55, p. 2827.)

Seattle, 1954

In hearings in Seattle, Washington, the Committee interrupted its questioning of a friendly witness to ask her to comment on a leaflet attacking the Committee which was being distributed by subpoenaed witnesses. Mr. Jackson, describing the leaflet as a "highly illiterate document", went on to state:

"I see no reason why his [the author's] name should not be made known, not only to the members of his own union, but to everyone who may be within sound of the activities of this committee today. And so there is no mistake about it—the name is Mel Kirkwood, M-e-l K-i-r-k-w-o-o-d, and his illiterate diatribe sounds like an editorial from the Communist Daily Worker." (H. 59, pp. 6082-3.)

Kirkwood was later called and questioned concerning the leaflet, including how many copies had been typed, amongst whom they were circulated, etc. (H. 59, p. 6289.)

Washington, D.C., 1956

"Mr. Arens: Did you hire Dr. Marie Jahoda as one of your associates and assistants?

* * *

"Mr. Arens: Did you know that she was admitted into the United States only in 1945?

"Mr. Cogley: She has a pronounced accent. I presumed it was not too long ago.

"Mr. Arens: Did you know that prior to her association with the study of which you were director that she had issued reports or studies herself critical of the loyalty programs of this Government, published reports?" (H. 103, p. 5180.)

Los Angeles, 1956

The Committee interrupted the line of interrogation of a witness and asked him about a button he was wearing which opposed the Walter-McCarran Act. He was asked what organization he got it from, whether he had to pay for it, and finally, "What else . . . [he had] done besides displaying that button to try to cause the repeal of the Walter-McCarran Immigration and Nationality Act?" (H. 107, pp. 6743-4.) (See also H. 61, p. 4350; H. 128, p. 558.)

Washington, D.C., 1958

The Committee issued a subpoena to Cyrus Eaton after he had verbally attacked J. Edgar Hoover and the FBI.

The Committee stated publicly that it intended to question Eaton about his statements. ("House Committee Subpoenas Eaton, Un-American Activities Unit to Question Industrialist on Attacks on F. B. I.," New York Times, May 20, 1958.)

Atlanta, 1958

A witness in Atlanta was questioned about his activities in opposition to the Committee as follows:

> Mr. Arens: "While you were one of these organizers did you lend your name, your prestige, and your status in the labor organization in attacks against the House Committee on Un-American Activities?
>
> * * *
>
> "I have in my hand a thermofax reproduction of the Communist Daily Worker of Sunday, May 25, 1947, listing names of a number of people who are alleging witch hunts, fascism, Red baiting and the like of this committee as alleged by the conspiracy, all endorsing this warning against this committee, including one Karl Korstad of the Food and Tobacco Workers Union in Memphis. Does that refresh your recollection?
>
> "Mr. Korstad: Personally, I don't remember, I could have." (H. 122, p. 2706.)

Pittsburgh, 1959

The Committee questioned a witness about an ad placed in a local paper opposing scheduled hearings. Mr. Arens wanted to know, "Who gave you the information contained in the ad about the voting records of the members of this committee? Who gave you that information?" (H. 125, p. 350.)

Chicago, 1959

Both Richard Criley and Leon Katzen stated that they were subpoenaed for the 1959 Chicago, Illinois hearings

four weeks after all the other subpoenas had been served and only after they had mailed out 8000 copies of a leaflet over their signatures opposing the hearing. (H. 128, pp. 539, 542, 550-52.)

Washington, D.C., 1962

Rep. Scherer stated, "this letter [of Rev. Dr. Willis E. Elliott, Secretary, Department of Evangelism, Board of Homeland Ministries, United Church of Christ] has been given wide circulation. It is a scurrilous attack on the [Committee]. . . . One does not expect this kind of a letter from one of the lowest persons in our society, much less a minister of the Gospel. It rather nauseates and disgusts me that some member of the clergy and some others like him in the Cleveland area use their clerical robes to give weight to their unfair and false charges." (H. 153, p. 1052.)

The letter is then quoted as referring to:

> "Violation of your own rule that the names not be made public prior to the hearing date, the identity of the subpoena-recipient has been given most excellent publicity (by your design or by the irresponsible management of your staff)." (H. 153, p. 1052.)

Washington, D.C., 1963

"Mr. Nittle: Did you issue or cause to be issued a public statement, which you intended to be published in the press, relating to your opposition to the loyalty oath?

"Mrs. Johnson: I decline to answer that question on the grounds which I have previously stated.

"Mr. Nittle: Did you test the loyalty-oath law in the courts?

Mrs. Johnson: I decline to answer that question as previously stated.

"Mr. Nittle: Were you instructed by any Communist Party functionary to do just that?" (H. 157, p. 535.)

The Committee inquires about legitimate political activity.

A common theme of the Committee is that it is the patriotic duty of Americans to avoid political activities which might bring them into association with members of the Communist Party. A cloak of suspicion and disloyalty is thereby cast upon activities and beliefs over a wide range, including peace, civil rights, immigrant welfare, and civil liberties. The Committee frequently states or implies that Americans should avoid certain groups and ideas, even though they may have inherent worth, because it is possible that the organizations are serving purposes of the Communist Party. For example:

Newark, 1958

"Mr. Willis: Today, the Communist Party, though reduced in size as a formal entity, is a greater menace than ever before. It has long since divested itself of unreliable elements. Those who remain are the hard-core, disciplined agents of the Kremlin on American soil. Most of the Communist Party operation in the United States today consists of underground behind-the-scenes manipulations. The operation is focused at nerve centers of the Nation and masquerades behind a facade of humanitarianism." (H. 123, p. 2761.)

New Haven, 1956

"Mr. Arens: Did the hard-core Communists themselves, the actual, what we call, technical members of the conspiracy, have under their discipline other people?

"Mr. Mosher: Yes; they did.

"Mr. Arens: What would be a fair proportion, Mr. Mosher, of the people who are under Communist Party discipline as distinct from the actual 23,000 hard-core members of the conspiracy on American soil?

"Mr. Mosher: I would feel that the fellow travelers or people who are sympathizers would be probably 10 to 1 at least.

"Mr. Arens: Ten to one of the hard-core?

"Mr. Mosher: Well, of the membership.

"Mr. Arens: What is your estimate now of the basis of the conspiracy in Connecticut, as to the total membership in the conspiracy itself within this State?

"Mr. Mosher: Well, the total membership of the Communist Party members within the State at the time that I had knowledge was somewhere in the vicinity of eight to nine hundred people.

"Mr. Willis: How many?

"Mr. Mosher: Eight to nine hundred.

Mr. Arens: These eight to nine hundred were just not namby-pamby intellectual jackasses; they were members of the conspiracy, were they not?

"Mr. Mosher: Members of the Communist Party. (H. 105, p. 5657.)

Boston, 1958

"Mr. Arens: Can you tell us the ratio, on the basis of your background and experience, of hard-core Communists to those who are under Communist discipline or who contribute to the work of the apparatus?

"Mr. Penha: Sir, that is a question well put. I think it is a very pertinent one. You will find that approximately 40 to 60 percent of its membership are secret members, hard-core members, that are infiltrated in various organizations, industry, fraternal organizations, and the like. This, of course, does not mean that this remaining portion are not hard core, but they are in other levels.

"Mr. Arens: Is there any way you could appraise for us, based upon your experience in the Communist Party, the numbers who are not actually within the apparatus consciously but who serve the work, purpose, and objective of the apparatus under the stimulus of the apparatus?" (H. 121, p. 2098.)

The Committee raises suspicion about the entire peace and disarmament movement:

Washington, D.C., 1963

"Mr. Doyle: Why then, do they talk of peace?

"Because it serves Communist interest in two ways:

"1. The initiated Communist, understanding his Marxist-Leninist doctrine, knows that a Moscow call to intensify the 'fight for peace' means that he should intensify his fight to destroy capitalism and its major bastion, the United States of America. This is the way to peace—according to his Communist doctrine. Thus, Communist peace propaganda is a call to action for all Communists, spurring them to increased activity and effort aimed at achieving the Communist goal of world conquest—by war or any other means.

"2. As events have proved, peace propaganda and agitation have a disarming, mollifying, confusing and weakening effect on those nations which are intended victims of communism. Moreover, throughout history, aggressors, dictators, and governments bent on conquering others, or the whole world, have known that pacifism or an unrealistic and exaggerated desire for peace on the part of their intended victims is a tremendous asset to ultimate victory for the aggressor. Excessive concern with peace on the part of any nation impedes or prevents adequate defense preparation, hinders effective diplomacy in the national interest, undermines the will to resist and saps national strength. For this reason, in today's world, intense peace propaganda and agitation in non-Communist nations obviously serve the aggressive plans of world communism." (H. 155, p. 2065.)

The Committee raises suspicion about those committed to racial progress.

1947

"The Southern Conference for Human Welfare is an organization which seeks to attract southern liberals on the basis of its seeming interest in the problems of the South. In the early history of the organization, some well-intentioned persons were misled into joining. Many of them have since severed their connections on learning its true character.

"Careful examination of its official publication and its activities will disclose that the conference actually is being used in devious ways to further basic Soviet and Communist policy. Decisive and key posts are in most instances controlled by persons whose record is faithful to the line of the Communist Party and the Soviet Union." (Report on Southern Conference for Human Welfare, H.R. Rep. No. 592, 80th Cong., 1st Sess. 2 (1947).)

Atlanta, 1958

"Mr. Arens: Do you honestly feel, and are you trying to make this committee and the people of this country believe, that you, a member of the Communist conspiracy, responsive to the will of the Kremlin, are in truth and in fact, concerned about the welfare of the Negro people of this country?

"Mr. O'Dell: I wouldn't try to make you believe anything.

"Mr. Arens: Then stand up and tell this committee while you are under oath whether or not your activities and this facade that you are throwing around yourself in this aura of so-called respectability are not a front for the conspiratorial activities of yourself as a member of the Communist Party." (H. 122, p. 2716.)

The Committee congratulates those who refuse to allow alleged Communists a forum, raising the implication that those who do allow them a forum are disloyal.

Washington, D.C., 1960

"Mr. Jackson: One Baptist church in the District—and I hope Heaven will look kindly on the minister of that church—refused to let the group use his church for that purpose when the nature of the meeting became apparent and when it was made known that an identified, convicted Communist was going to be on the platform with high church officials." (H. 135, p. 1313.)

On occasion, the Committee makes quite explicit its view that citizens should not associate themselves with causes or organizations that have any Communist participation on pain of being charged with Communist membership or sympathy.

Los Angeles, 1956

"Mr. Doyle: May I suggest that it would seem to me that if I were a sponsor of the Los Angeles Committee for Protection of Foreign Born, now that this record is revealed showing the bank account in control of convicted or proven Communists, I would get off the sponsorship.

"Mr. Scherer: Unless you were a Communist.

"Mr. Doyle: Well, unless I wanted to help the Communist cause against the internal security of my country.

"And I think now, in view of this public record which can't be controverted—here it is,—that if I were a member of the Los Angeles Committee for Protection of Foreign Born, I think I would get off. I am dead sure I would get out of that committee.

"Mr. Scherer: Unless you were a Communist.

"Mr. Doyle: Yes, or wanted to help their cause." (H. 107, p. 6836.)

1967

"The success of the Communist united front strategy, which is so evident in the Vietnam Week program, indicates that much needs to be done, particularly on the college level, to inform the youth of America about both the principles on which the Government of this country is based and the nature, record, strategy, and tactics of communism. No person who is truly dedicated to freedom, liberty, and the concept of democratic government, who opposes tyranny and totalitarianism—and, at the same time, is truly informed about the nature and record of communism—joins in any united front operation with Communists." (*Communist Origin and Manipulation of Vietnam Week*, 90th Cong., 1st Sess. (Comm. Print 1967) p. 54.)

The Committee repeatedly inquires into legitimate political activities not involving illegal action and about

which Congress could not constitutionally legislate. The Zeisel study reveals that of all questions asked by the Committee to unfriendly witnesses involving Communist or other allegedly subversive activities, only 6 per cent dealt with illegal and proscribable activities such as espionage, sabotage, etc. Many of the activities were matters of public record and putting such questions could only serve to expose the witness to public displeasure. For example:

Candidacy for political office

"Mr. Arens: I lay before you now a photostatic copy of lists of the Communist candidates for November elections of 1930, 1932, 1934, 1936 and 1938, including a list of the presidential electors for 1932, and 1936, and ask you to look at that document and tell us whether or not you are the Sam Davis alluded to as one of the presidential electors of the Communist Party?" (H. 105, p. 5745.) (See also H. 61, p. 4355; H. 105, pp. 5619, 5719, 5747; H. 128, p. 566; H. 123, p. 2859.)

Nominating Petitions

"Mr. Nittle: Mrs. Chesman, the official record indicates that a Miriam Chesman in 1946, a resident at 117 White Plains Road, Bronx, N.Y. was a signer of a Communist Party nominating petition for several persons, including Robert Thompson who is listed as a candidate for the office of governor of New York upon a Communist Party ticket.

"I hand you a photostatic copy of that petition marked for identification as Chesman Exhibit No. 2. Are you the Miriam Chesman whose signature is upon that nominating petition? . . . ."

"Mr. Nittle: You will note that the petition is entitled 'Communist Party Independent Nominating Petition.' It is directed to the Secretary of State of New

* Appendix 5, Table 5, p. 77.

York and states that the signers of that petition declare their support of the candidates nominated, and select the name 'Communist Party' as the name of the independent body making the nomination.

"Were you a member of the Communist Party on the date of the execution of that petition." (H. 155, p. 2170.) (See also H. 105, pp. 5750, 5672, 5753; H. 155, p. 2101; H. 123, pp. 2769-70, 2809, 2850; H. 82, p. 5417; H. 111, p. 818.)

Communications with Elected Officials

"Mr. Nittle: In the course of your candidacy, were you contacted by pressure groups or representatives of pressure groups?

"Mr. Flink: Yes, I was, sir.

"Mr. Nittle: Were you contacted by any representatives of the peace movement?

"Mr. Flink: I was. I was contacted by the Committee for a Sane Nuclear Policy and by the Women Strike for Peace.

"Mr. Nittle: Would you describe the circumstances under which you met with a representative or representatives of Women Strike for Peace?

"Mr. Flink: During the month of October, the candidate who was running for the State senate on the same ticket I was and I, both received an invitation to be interviewed by the local representatives of the Women Strike for Peace.

"We arranged an appointment at my running mate's house, which was held during one evening. I don't recall the date at this point, but at that time, the representative of Women Strike for Peace and two other women came to my running mate's house, and we then proceeded to be interviewed.

"Mr. Nittle: Would you tell us what was said during the course of that interview?

"Mr. Flink: The women asked us whether or not we were familiar with the Women Strike for Peace, and we told them we had heard the name, had seen some of their literature.

"They then proceeded to show us other literature and ask us questions which primarily dealt with the subjects of disarmament, the conversion of presently operated military plants to peacetime use, the proposal for the introduction of legislation to set up an economic committee within the State to study the problems associated with disarmament—unemployment, for instance, retooling—so that in the event disarmament was achieved we would then be able to disarm or change over our economy with a minimum of confusion and unemployment." (H. 155, p. 2072.)

"Mr. Arens: Have you in the course of the last several years gone to see the Governor of this State, or the then Governor of this State, on behalf of certain causes in which you were active?" (H. 125, p. 378.) (See also, H. 105, pp. 5763, 5650; H. 61, pp. 4361-62; H. 100, p. 5061; H. 82, p. 5225.)

"Mr. Scherer: Would you mind telling us what your conversation was with Congressman Zablocki?

"Mr. Giacomo: I told him I was subpenaed to come before this committee.

"Mr. Scherer: What did Zablocki say?

"Mr. Giacomo: He did not seem surprised or did not seem excited about it.

* * *

"Mr. Scherer: When Congressman Zablocki arrived at your home, tell us just in substance what you said to him.

"Mr. Giacomo: I said, 'Congressman, I want you to know, and I think you ought to know, that I have been subpenaed by the House Committee on Un-American Activities.' I thought he would find out sooner or later that I had been subpenaed and appeared before this committee and, being my Congressman, I thought he should know about it from me rather than anyone else.

* * *

"Mr. Doyle: Off the record.

(A short discussion was held off the record.)

"Mr. Doyle: I recessed the committee for a moment to have an informal discussion with reference to this question. I would like to have the record show what Mr. Tavenner feels, as long as we have gone as far as we have on the record, that the question ought to be answered, which Mr. Scherer asked about the conversation between the witness and Congressman Zablocki.

"I just informed Congressman Scherer that I felt that that question was not germane or pertinent and not a proper question.

"Mr. Tavenner: It was my suggestion to the chairman that, inasmuch as the record shows what it does, it ought to be clarified by a complete and full answer to the question and such further questions as Mr. Scherer desires to ask him regarding Mr. Zablocki. Then, if there is any need, Mr. Zablocki can be called for any explanation that he desires to make.

"Mr. Doyle: I might further state that it has been my impression or feeling, as a member of the committee, that conversations in which a Congressman is referred to—that confidential conversations between a constituent and a Congressman are, more or less, in the category of a confidential communication. On that basis, partially, I felt that it was an improper question, but let's proceed." (H. 174, pp. 1248-50.)

Newspaper Advertisements and Letters

"Mr. Bruce: Are you a signer of an ad that appeared in the *National Guardian* on July 16, 1962, entitled "THE RIGHT TO SANCTUARY," dealing with Robert H. Soblen and appealing to England and appealing to the public to demand that England grant sanctuary to Dr. Soblen." (H. 157, p. 301.) (See also H. 157, pp. 2098, 2100, 2148; H. 163, p. 1915; H. 55, p. 2898.)

Public Meetings and Speeches

"Mr. Nittle: The Committee has information that at the west side committee for friendly relations with Cuba meeting, which was held on September 28, 1961,

at the Carlton Terrace, and to which I referred in Exhibit No. 2, there were approximately 500 people in attendance at that meeting. Is that your memory?

* * *

"Mr. Nittle: Was not the chairman of this meeting Jessie Gordon, who is the public relations and editorial consultant of a magazine called *The Nation?*

* * *

"Mr. Nittle: As a matter of fact, he gave you a rather long introduction as the first speaker. Did he not introduce you as a lawyer and fighter for civil liberties?

* * *

"Mr. Nittle: The report of your address at that meeting seems to indicate that your subject was solely Cuba. Do you recollect saying this, or words to this effect? 'The Cubans are working out a new way of life . . .'?

"Mr. Lynn: That may very well be completely accurate." (H. 157, p. 311.)

Peaceful Demonstrations

"Mr. Nittle: I hand you a photograph which is marked for identification as Posner Exhibit No. 4.

"This is a photograph of the picket line established at the White House in Washington on April 28, 1962, by Women Strike for Peace.

"Do you not appear in that photograph as the second person in line from the right carrying a sign, 'WE HAVE NO RIGHT TO TEST'?

"Mrs. Posner: The fifth." (H. 155, p. 2086.) (See also H. 153, pp. 1142-43; H. 155, pp. 2193, 2196; H. 157, p. 2141; H. 82, p. 5284.)

Articles

"Mr. Nittle: Have you written articles for the *National Guardian* at any time?" (H. 157, p. 262.)

Student Organizations

The Committee subpoenaed membership lists of six campus organizations at the University of Michigan and University of California and denied a motion to suppress the lists. (H. 170, p. 923).

Sales of Books and Periodicals

"Mr. Colton: Sir, I refuse to answer the question on the following grounds: In view of Congressman Walter's statement that it is for the purpose of effecting legislation concerning the sale of books or magazines, I feel that such sale—

"The Chairman: May I interrupt at that point?

"We are not concerned with the sale of books or magazines. We are concerned with the distribution of Communist propaganda and nothing else. I hope you have not misunderstood me." (H. 115, p. 1222.)

The *San Francisco Chronicle* reported the interchange as follows:

"Colton began to object on grounds the constitution forbids legislation banning the sale of books.

"Chairman Walter said, 'These are not books, this is Communist propaganda.'

"'A books is a book, whether it's Communist or not,' Colton said defiantly." (*San Francisco Chronicle*, Friday, June 21, 1957.)

The Committee's publications and files.

The materials published by the Committee can be divided into three principal categories:

(1) The largest category consists of the hearings and reports dealing with allegedly subversive activities within the United States.

(2) The second largest group of publications are monographs, anthologies and a few "consultations" all re-

lating to various aspects of the Communist movement throughout the world.

(3) The third group consists of publications explaining and defending the Committee's own existence.

(There are also a relatively limited number of reports with respect to bills which have been referred to it and with respect to proceedings for contempt of Congress.)

(1)

The format of each of the published hearings is basically the same. The Committee first sets out the mandate of the Committee, Public Law 601, embodying Rule XI. Then follows a synopsis of the hearing, a short, unanalytical statement of what happened at the hearing. With respect to the unfriendly witnesses, the Committee summarizes the answers which the witnesses gave, and also sets out many questions which they refused to answer on grounds of self-incrimination or for other reasons. Thus the synopsis contains a summary of many of the statements which were made about the witness during the hearing.

Following the synopsis is a transcript of the hearing with copies of some of the exhibits which the Committee made use of during the hearing. Frequently the transcript contains footnotes referring to matters outside the record of the hearing (*e.g.*, H. 174, p. 1258). The transcripts are frequently edited either as shown by asterisks or otherwise. Following the transcript is an index listing all the individuals, organizations and publications which have been referred to in the hearings, including persons whose names may not have been mentioned but are included in exhibits (See, *e.g.*, Ex. 50, pp. 40, index xv).

The reports of hearings have been given wide circulation by the Committee. For example, the Committee arranged for the printing of five times the normal run on Congressional documents for its hearings entitled *Violations of State Department Regulations and Pro-Castro Propaganda Activities in the United States* (H. 157). (See H. Con. Res. 413, 89th Cong., 1st Sess., 79 Stat. 1431.)

Each year the Committee's annual report reiterates the substance of the hearing synopses from that year including references to questions which the witnesses refused to answer. These materials also receive broader circulation than the normal Congressional document. (See, *e.g.*, H. Con. Res. 412, 89th Cong., 1st Sess., 79 Stat. 1431.)

Closely associated with the hearings are the Committee's reports about Communist or other "subversive" activities based upon its hearings and investigations. More or less typical examples of these reports are *Report on the Southern Conference for Human Welfare*, H. R. Rep. No. 512, 80th Cong., 1st Sess. (1947), *Communist Legal Subversion: The Role of the Communist Lawyer*, H.R. Rep. No. 41, 86th Cong., 1st Sess. (1959), and *Communist Origin and Manipulation of Viet Nam Week (April 8-15, 1967)*, 90th Cong., 1st Sess. (Comm. Print, 1967). The main thrust of these Committee reports is that Communists are involved in activities outside of the Communist Party by which they intend to achieve the ends of the Communist Party.

While each of these reports contains the results of investigations, there is no suggestion that it is necessary or advisable that Congress take any action. For the most part the reports indicate that alleged Communists are joining organizations and protesting government action which they oppose. None of these reports indicate that these persons were engaged in activities which Congress

might proscribe. The major function which these reports seem to serve is to spotlight the activities of certain individuals and organizations which the Committee deems subversive. The Committee achieves wide circulation for these reports. For example, 11,500 additional copies of the report on *Communist Legal Subversion* were printed. (H. Res. 187, 86th Cong., 1st Sess., 105 Cong. Rec. 4097 (1959).)

The summary product of all the Committee's reports and hearings is its *Guide To Subversive Organizations and Publications* (H.R. Doc. No. 398, 87th Cong., 2d Sess. (1961)), which according to its introduction "lists a total of 663 organizations or projects and 122 publications cited as Communists or Communist front by Federal Agencies; and 155 organizations and 25 publications cited as Communist or Communist front by State or Territorial investigating committees." (p. 10.) This widely circulated document (100,000 copies, H. Con. Res. 416, 87th Cong., 2d Sess., 76 Stat. 1417) contains no information not otherwise publicly available. For the most part it is quotations from other congressional documents. A typical entry is:

> "Modern Book Store (Chicago, Ill.)
>
> "1. 'The evidence in the record of the Committee hearings is clear, and *the committee so finds,* * * * that the Modern Book Store, Chicago, is the [Communist] party outlet for Communist Party propaganda and literature in that area.' *(Committee on Un-American Activities, Annual Report for 1957, H.R. Rep. 1360, February 19, 1958, p. 37.)*" (Emphasis added.)

(2)

The second major area of the Committee's publications are those which attempt to characterize the international Communist movement as a monolithic effort to destroy democratic government by any means including force and violence. These publications serve as continual re-

inforcement of the Committee's view of Communism. The most recent document in this series is typical. The Committee's report, *Communist Commitment To Force And Violence,* 90th Cong., 2d Sess. (Comm. Print 1968), gives the philosophical background of the supposed commitment to force and violence and tries to show how these means are advocated and applied by Communist movements throughout the world. The report discusses Communism in Russia, China, Czechoslovakia, Italy, Cuba and parts of South America, but does not relate the discussion to events in the United States. While this most recent publication is a relatively short document of only forty pages, some of the Committee's reports on international Communism are much larger. Part I of *The Communist Conspiracy* (H.R. Rep. No. 2240-44, 84th Cong., 2d Sess., 1956) is approximately three inches thick. The Committee's *Soviet Total War: 'Historic Mission' of Violence and Deceit* (1956) is a 1200 page anthology of short articles many of which were previously published elsewhere. (7,000 additional copies of this two-volume set were printed, H. Con. Res. 307, 87th Cong., 1st Sess., 75 Stat. 964.) Following are the titles of several other like publications of the Committee:

The New Role of National Legislative Bodies in the Communist Conspiracy, 87th Cong. 1st Sess. (1961).

Lest We Forget! A Pictorial Summary of Communism in Action (Dr. Klaus Samuli Gunnar Romppanem), 86th Cong., 2d Sess. (1960).

Crimes of Khrushchev, Parts I-VII, 86th Cong., 1st-2d Sess. (1959-1960).

Communist Persecution of Churches in Red China and Northern Korea, 86th Cong., 1st Sess. (1959).

Who Are They? (Part IX — Hoxha and Gheorghiu-Dej), 85th Cong., 2d Sess. (1958).

(3)

The last category of documents is that in which the Committee seeks to defend its own efforts. It consists of publications explaining what the Committee does, attacking persons who oppose the Committee, and defending the Committee's actions.

Typical titles are "House Committee on Un-American Activities, What It Is, What It Does" (July, 1958); "The Communist Party's Cold War Against the Congressional Investigation of Subversion" (1962); "The Truth About the Film 'Operation Abolition'" (1961).

These documents are well circulated. The Annual Report for 1966 states (H.R. Rep. 460, 89th Cong., 2d Sess. (1967), p. 41):

> "During the year 1966, the Committee distributed 101,394 copies of its publications to Members of Congress, Government agencies, and private individuals and organizations.
>
> "The Committee had a total of 129,596 copies of its publications available for distribution during 1966. This total included 75,075 documents printed and received prior to 1966, 10,284 copies of hearings and reports dated 1965 but received from the Government Printing Office in 1966, and 44,210 copies of hearings and reports dated 1966."

In 1962 the Committee distributed 456.410 copies of its publications. (Committee on Un-American Activities, *Annual Report for the Year 1962* (Comm. Print 1963), p. 87.)

"Operation Abolition"

After the San Francisco hearings of May, 1960, a film, "Operation Abolition," was commissioned by the Committee to be made from subpoenaed news films of disturbances surrounding the 1960 San Francisco hearings.

Upon its completion the film was incorporated in a report to the House relating to the hearing disturbances.

Critics of this film claimed that facts were misstated, that scenes were shown out of sequence and that the film ignored matters necessary to give a full picture of what happened at the hearings. (See *Wilkinson* v. *United States*, 365 U.S. 399, 426-27 (1961) (Douglas, J. dissenting).)

The Committee issued several publications about "Operation Abolition" and the San Francisco hearings. First published was J. Edgar Hoover's analysis, *Communist Target — Youth, Communist Infiltration and Agitation Tactics*, 86th Cong., 2d Sess. (1960). (250,000 copies, H. Res. 601, 86th Cong., 2d Sess., 106 Cong. Rec. 18764 (1960); H. Con. Res. 142, 87th Cong., 1st Sess., 75 Stat. 960; H. Con. Res. 384, 87th Cong., 1st Sess., 75 Stat. 967.) Next published was a Committee report, which incorporated the film "Operation Abolition," and was entitled *Communist Led Riots Against the House Committee on Un-American Activities*, H. R. Rep. 2228, 86th Cong., 2d Sess. (1960). (36,000 copies, H. Res. 397, 87th Cong., 1st Sess., 107 Cong. Rec. 18582 (1961).) The hearings themselves were published in four parts and entitled *Northern California District of Communist Party, Structure, Objectives, Leadership* (1960). (10,000 copies, H. Con. Res. 309, 87th Cong., 1st Sess., 73 Stat. 963.) The entire story was repeated in synopsis in the 1960 Annual Report of the Committee. (H.R. Rep. No. 2237, 86th Cong., 2d Sess. (1960).) (12,000 copies, H. Res. 104, 87th Cong., 1st Sess., 107 Cong. Rec. 4063 (1961); H. Res. 398, 87th Cong., 1st Sess., 107 Cong. Rec. 18582 (1961).) In late 1961 the Committee published a report entitled *The Truth About the Film 'Operation Abolition'*, H.R. Rep. No. 1278 (2 parts), 87th Cong., 1st Sess. (1961). (20,000 copies, H. Con. Res. 417, 87th Cong., 2d Sess., 76 Stat. 1421.) About 1,300 copies of the film

"Operation Abolition" were sold by the end of 1961. (*The Truth about the Film 'Operation Abolition', id.* at 41.)

Cumulative Index

In addition to the index which the Committee publishes in the back of each of its individual publications it also publishes periodically a cumulative index of all Committee publications. The first cumulative index to the publications of the Committee was published in 1953 and extended over 780 pages. (Committee on Un-American Activities, *Cumulative Index to Publications of the Committee on Un-American Activities* (1953).) The Committee published a supplement in 1961 covering the period 1955 to 1960. The 1961 Annual Report described the supplement as follows (H.R. Rep. 2559, 87th Cong., 2d Sess. (1962) p. 113-114):

> "A much needed supplementary cumulative index was printed in 1961, listing every hearing, report and consultation published by the Committee during the period 1955-1960, as well as the 14,312 individuals, 2,427 organizations, and 892 publications mentioned in them. The supplement reveals that during the 84th, 85th, and 86th Congresses the Committee published 99 hearings or parts of hearings and 67 reports and consultations or parts thereof.
>
> "In addition to the 14,312 persons listed in the supplementary index, hundreds of aliases attributed to many of these persons are included. The 2,427 figure for organizations does not include several thousands of their subsidiaries and affiliated groups which are listed in the index. There are, for example, 732 subdivisions and units listed in the index under 'Communist Party of the United States of America,' although only the party itself is included in the 2,427 figure.
>
> ". . . The only way to determine under what circumstances an individual, organization, or publication

was mentioned by or before the Committee would be to consult the original hearing or report in which the name appears."

Use of the Committee's Files

The present size of the Committee's files on individuals and organizations is not publicly known. As early as 1943, however, the materials collected by the Special Committee on Un-American Activities filled 135 filing cabinets and were tabulated and indexed on over 1,000,000 index cards. (89 Cong. Rec. 131 (1943).) In 1962 Congressman Walter explained the basic organization and use of these files in a letter to Representative Curtis which was published in the Congressional Record (108 Cong. Rec. 18280 (1962)):

"First, I think it would be helpful to explain the two major categories of files maintained by the committee. One set, referred to as 'investigative' files, consists of 'lead' material and confidential reports of committee investigators. Information in these files is not used for regular reference purposes, and is available only to the staff. The other set, called 'public' files, consists of committee publications and information secured from public sources, such as newspapers, magazines, authenticated letterheads, and other documents available from public sources. Such material could be found by any competent researcher. The committee does not make its 'public' files available to the general public, but the Rules of the House of Representatives provide that 'such records shall be the property of the House and all Members of the House shall have access to such records.' (See rule XI, clause 26 (c).) In accordance with this provision, the committee maintains a reference service for Members of the House, through which information from these 'public' files may be furnished upon receipt of a written request, which becomes a part of the records. The courtesy has been extended to include Mem-

bers of the Senate. To assist the executive branch of the Government in the fulfillment of its responsibility under several laws relating to loyalty and security, the service has also been extended to authorized representatives of executive departments and agencies."

In each annual report the Committee makes a short statement about the extent to which the reference service based on these files is used by members of Congress and other agencies of the government.* The most thorough statement on this subject was contained in the 1955 Annual Report (H.R. Rep. No. 1648, 84th Cong., 2d Sess. (1956) pp. 33-35):

"The committee maintains a large collection of information on the subject of subversive activities covering, in general, the years 1938 to date, although there is a wealth of even older material on file.

"This valuable collection is maintained in order to furnish reference service not only to the committee's own members and staff for use as background material and actual exhibits in investigations and hearings but to every Member of Congress who submits a written request for information in this field.

"This reference service goes far beyond the ordinary type which simply points out the best sources of information to the person making inquiry. Whenever references to the subject under consideration are found in public source material, a written report of that information is furnished setting forth, point by point, what appears and where it appears, together with any pertinent citations by this committee or the Attorney General on every organization involved.

"Although the usefulness of this service cannot be judged entirely by statistics, the following figures do

* E.g., Committee on Un-American Activities, *Annual Report for the Year 1966,* H.R. Rep. No. 460, 89th Cong., 2d Sess. (1967) p. 40.

indicate that there is great interest in and need for the information. During 1955, more than 1,300 requests were received from the Members of Congress, necessitating a check of source material in the committee's public records, files, and publications for information on 4,325 individuals and 911 organizations, publications, and more general subjects. In 3,181 instances, information was found in committee records and was compiled into detailed reports sometimes as long as 12 to 15 pages on a single subject.

"The constant use of the collection by the committee's own employees can be only partially described by statistics. However, the reference section staff has supplied to other staff members written reports on 1,272 individuals and 58 organizations over the past 12 months, has given verbal answers on 2,072 persons and 1,011 organizations, and has searched out and supplied copies of 800 or more exhibits for use in investigations and hearings.

"Still another service of the reference section is furnished to designated representatives from various agencies of the executive branch of the Government, who are permitted, 4 days each week, to use the resources available here in making security checks. It has been necessary, because of comparatively limited space and facilities, to restrict the number of agents accredited for admission as well as the amount and type of reference service provided for them. However, the reference section staff has continued to point out sources of information and to answer their questions concerning committee records on an average of 12 or more times daily. A total of 3,500 visits by properly accredited Government agents has been recorded for 1955, which in 37 percent of the cases extended over the entire working day.

"While the use of this collection grows continually, so does its usefulness increase by proper maintenance and the careful processing and indexing of new additions. The care of such an extensive and varied amount of material is within itself a task, for *such material does not become obsolete and available for discard or*

storage, but tends to become more valuable and to require more careful handling as it increases in age and volume.

"New material, in order to be properly incorporated into the collection, available for immediate use in a variety of circumstances, and properly reported, must be exactly classified, thoroughly cross-referenced, and minutely indexed. Many thousands of original and microfilm or photostatic copies of periodicals, clippings, books, pamphlets, and other printed matter have been so processed and added to files in the past year. Among these, perhaps the most valuable were 215 rolls of microfilm which have for the first time provided a complete file of the issues of the Communist papers, *Daily Worker, Daily People's World, Midwest Record,* and *Western Worker,* as well as a number of other publications new to the committee's periodical files. The acquisition of microfilm has, moreover, released a small but important amount of space for other records, affording some temporary relief in the critical problem of housing a voluminous and ever-growing collection of material on a vitally important subject." (Emphasis added.)

In 1967 Chairman Willis indicated that not only are the files regularly used by the Committee but also by other agencies of the government (113 Cong. Rec. H3533 (1967)):

"Our files are searched four days a week, on a full-time basis, by 8 to 15 representatives of certain Federal departments and agencies. Representatives of other agencies do the same type of work at the Committee offices on an irregular basis."

Mr. Willis indicated that 27 government departments or agencies send personnel to search the Committee files. Searches were made by Committee employees on behalf of fourteen other agencies and departments as well as various Congressional Committees. (113 Cong. Rec. 3533 (Daily ed. April 5, 1967).)

On March 13, 1968, Rep. Don Edwards inserted into the Congressional Record letters from a number of government agencies which indicated that the Federal Personnel Manual requires that the Committee's files be checked for certain types of employees. (114 Cong. Rec. H1889-91 (Daily ed. March 13, 1968).)

The Committee's files have served a number of other purposes. In 1959 the Committee subpoenaed over 100 California teachers to a hearing. The Committee decided to cancel the hearings and to "transmit to the Boards of Education for the School Districts employing subpoenaed teachers the names of such teachers so that they might be interrogated by such Boards which would then transmit to the Committee a copy of the transcript of the proceedings." (Francis E. Walter, 106 Cong Rec. 17042 (1960).) It was also determined to send to the Boards of Education Committee information regarding the teachers. *(Ibid.)* When the American Civil Liberties Union in Southern California sought to enjoin these proposed actions, the Committee transmitted files on more than 90 teachers to the State Superintendent of Public Instruction. "The San Francisco Chronicle quoted William A. Wheeler, the Committee's investigator, as stating that the files were delivered to the Superintendent in order to 'beat' the injunction. (106 Cong. Rec. 8652 (1960).) When asked on the floor of Congress whether the fact that over 90% of the teachers subpoenaed were not fired by their local school boards indicated that they were not Communists, Congressman Walter answered (106 Cong. Rec. 17045 (1960)):

> "It does not prove that at all. It simply proves that the school authorities were derelict in their duty or they did not make use of the furnished information."

The firing of at least one teacher can be directly attributed to the Committee's release of these files. (See

Huntington Beach Union High School District v. *Collins*, 202 Cal. App. 2d 677, 21 Cal. Rptr. 56, *cert. denied*, 371 U.S. 904 (1962).)

Each report made by the Committee begins with the following caveat:

> "The public records, files and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily Communist, a Communist sympathizer, or a fellow-traveler unless otherwise indicated." (*E.g.*, 109 Cong. Rec. 13592.)

Committee dossiers on individuals have been placed in the Congressional Record. For example:

In 1961 Rep. Bruce set out in the Record dossiers on the leaders of the National Committee to Abolish the Un-American Activities Committee. (107 Cong. Rec. 7239 *et seq.* (1961).)

The same year Rep. Walter gave a speech on the floor of the House responding to a book entitled *The Un-Americans* and inserted into the *Record* dossiers of the author and another attorney. (107 Cong. Rec. 12721 *et seq.* (1961).)

In 1959 Rep. Walter in a speech on the floor of the House summarized dossiers of 34 artists whose works were being shown in the American National Exhibition in Moscow by the United States Information Agency. (105 Cong. Rec. 9746-48 (1959).) (See also 108 Cong. Rec. 3521-23 (1962) (eight artists including Alexander Calder).)

In 1960 Senator Eastland placed into the Record Committee dossiers on 13 sociologists whose works were relied upon by the United States Supreme Court in *Brown*

v. *Board of Education*, 347 U.S. 438 (1954). (106 Cong. Rec. 4031-37 (1960).)

In 1962 Rep. Walter had used the Committee's files in order to attack W. H. Ferry, an officer of the Fund for the Republic. (108 Cong. Rec. 23645, *et seq.* (1962).)

In 1956 and in 1963, Rep. E. C. Gathings of Georgia placed into the Congressional Record 30 pages of dossiers on leaders of the National Association for the Advancement of Colored People. Among those listed as "not necessarily Communist" were Ralph Bunche, Robert C. Weaver, Roy Wilkins, W. E. B. DuBois, A. Philip Randolph, Norman Cousins, Milton Konvitz, Morris L. Ernst, Karl Llewellyn and Clarence Mitchell. (109 Cong. Rec. 13591, 13593, 13596, 13603-07, 13614-16, 13620 (1963).)

In 1962 and 1963 Rep. Thomas B. Curtis set out in the Congressional Record a series of letters documenting non-official, defamatory use of Committee dossiers. (108 Cong. Rec. 3776-79, 18279-82 (1962); 109 Cong. Rec. 4627-29, 7258-59 (1963).) A Missouri churchman wrote to Rep. Curtis saying that he and others had been defamed by another's use of information obtained from the files of the Committee. He cited a number of instances of dossiers being published without the caveat that the Committee had not evaluated the material. When Rep. Curtis asked Chairman Walter about the Committee's attitude in these matters, Walter replied (108 Cong. Rec. 18280-81 (1962)):

> "Typewritten reports prepared in response to individual requests for information fall into an entirely different category. They do not express official opinions of the committee, and must, therefore, be written as nothing more than compilations of information from public sources in our files—without added comment or evaluation. *Evaluation and use of the in-*

formation become the responsibility of the recipient. Information furnished by the committee to a Member of Congress may or may not be passed on to a constituent. Disposition of the report is subject to discretion of the Member, and the committee has no power to control the action he may take. It follows, therefore, that the committee should not be held responsible for the use or abuse of these reports beyond the point of furnishing them to Members.

* * *

"I am sure that you realize it would be a virtually impossible task to 'prove' the many thousands of references in our files, even if we did not have the problem of limited personnel. Moreover, it is not a function of the committee. If, for instance, an official letterhead of a cited organization has listed an individual as a sponsor, the House has not required that the committee prove, before reporting the reference, that the person actually consented to be a sponsor. It would obviously be absurd to suggest that the committee, before complying with a Member's request for a report on an individual, should undertake to prove all references to be reported (which in many instances would involve several hundred items)." (Emphasis added.)

The next year the same churchman forwarded to Rep. Curtis a copy of a defamatory letter addressed to all the members of the Missouri State Legislature which stated that the information had been supplied by Chairman Walter. In a subsequent investigation Rep. Curtis determined that an evaluation of the Committee's dossier would reveal that the persons defamed had no connection with communism or the Communist Party.

In 1965, Carter Glass III, a newspaper editor, testified in the case of *Commonwealth of Virginia* v. *Wansley*. He stated that he had accumulated a file on every "Com-

munist-front'' individual whose name appeared in the newspaper which he edits and that in addition to getting his information from published reports of the Committee he also had the Committee's files searched for specific individuals at his request through Rep. Tuck. (A portion of this testimony is set out in 114 Cong. Rec. 1888-89 (Daily ed. March 13, 1968).)

LEGISLATIVE PRODUCT OF THE COMMITTEE

It has been claimed that the Committee has failed to produce useful legislation in proportion to the amount of time and money spent on its hearings and considering the kinds of consequences often suffered by persons called by or named before the Committee. In response to these criticisms, at the Committee's request the Legislative Reference Service of the Library of Congress in 1958 published a study of the legislative recommendations of the Committee as well as the success of the Committee in having them enacted into law. Legislative Reference Service, *Legislative Recommendations by the House Committee on Un-American Activities,* 86th Cong., 2d Sess. (rev'd ed 1960).

After reveiwing the report, Rep. Ryan of New York gave the following comment on the floor of the House (107 Cong. Rec. 2982-83 (1961)):

> "The primary business of any standing committee of the House should be legislation. In recent years the committee has become increasingly sensitive to the criticism that it has not served a useful legislative purpose. As a result the committee requested the Legislative Reference Service of the Library of Congress to prepare a list of the legislative recommendations made by the committee since 1941. Let us closely examine this record. The report entitled Legislative Recommendations by the House Committee on Un-American Activities appeared in 1958 and contains every legislative recommendation by the committee from 1941 to 1958.
>
> "The report lists 79 recommendations but 34 are identical, having been made in more than one session of Congress. The report indicates whether legislative or executive action was taken on the recommendations.
>
> "Thirty recommendations were relevant to six statutes: the Internal Security Act of 1950; the Immigra-

tion and Nationality Act of 1952; the Espionage and Sabotage Act of 1950; and the act of August 1, 1956, providing for the registration of individuals trained in foreign espionage schools. Of these six acts, only two were handled by the committee—the Internal Security Act of 1950 and the Communist Control Act of 1954. The other four were considered by the Judiciary Committee.

"Five recommendations were reported out by the Judiciary Committee and concern either statutes of limitations or penalties for various criminal offenses.

"It is significant that since its inception the committee has been responsible for only two acts—the Internal Security Act of 1950 and its 1954 amendments.

"Perhaps the most effective criticism of these acts is that they are totally ineffective. Apparently no individual or organization has ever complied with the provisions of these acts.

"In 1960 the legislative recommendation publication was brought up to date. For the period 1958-60 the committee lists 50 recommendations, and the report cites 31 bills introduced to the House. None were enacted. Out of approximately 12,000 bills filed during the 86th Congress in the House of Representatives, 11 were referred to the committee. The 11 represented nine-tenths of 1 percent of the total legislative work product. Does this justify the committee's existence? From 1950 through 1959 the committee did not hold one hearing on specific legislation."

A careful analysis of this report along with the subsequent annual reports of the Committee through 1966 indicates that the Committee's actual legislative product is very much smaller than found by the Legislative Reference Service. In fact, the Committee's publications claim only 32 different enactments. Of these, seven are contained in the McCarran-Walter Immigration and Nationality Act of 1952, and nine are contained in the Internal Security Act of 1950. (Four of the McCarran-Walter Act sections superseded sections of the Internal Security Act of 1950.)

A summary of the Committee's legislative product follows:

McCarran-Walter Immigration and Nationality Act of 1952, 8 U.S.C. §§1101 et seq. The Committee takes credit for seven provisions of the Act relating to subversive and un-American activities. The enactment of this major revision of the immigration law would seem more properly attributable to Representative Walter's position as Chairman of the House Committee on Immigration and Nationality.

Internal Security Act of 1950, 50 U.S.C. §781 et seq. This legislation was to be a comprehensive act requiring disclosure and regulation of the Communist Party of the United States of America. But the act has been ineffective because the courts have held that to require compliance with the registration requirements would violate the registrant's rights under the Fifth Amendment. *Albertson* v. *Subversive Activities Control Board,* 382 U.S. 70 (1965); *Communist Party of the United States* v. *United States,* 331 F.2d 807 (D.C.Cir. 1963), *cert. den.* 377 U.S. 968 (1964). Section 5(1)(D) of the Act, 50 U.S.C. §784(a)(1)(D), was held unconstitutional in *United States* v. *Robel,* 389 U.S. 258 (1967), see below. Section 6, 50 U.S.C. §785, prohibiting the application for or use of passports by members of Communist action organizations, was held to be unconstitutional on its face in *Aptheker* v. *Secretary of State,* 378 U.S. 500 (1964).

18 U.S.C. §3291. This statute established a ten-year statute of limitations for certain crimes relating to citizenship and naturalization and passports and visas. The usual statute of limitations under the federal Criminal Code for these crimes would be five years.

38 U.S.C. §1789. This section of the War Orphans Educational Assistance Act prohibits using educational benefits for war orphans at institutions on the Attorney General's list of subversive organizations. (See Executive Order 10450 §12.) The Committee claims this provision as a successor to Section 228 of the Veterans' Readjustment Assistance Act of 1952 which had a similar provision with regard to veterans' educational benefits. Both provisions are considerably narrower than the Committee recommendation which was as follows (Legislative Reference Service, *Legislative Recommendations by the House Committee on Un-American Activities,* 86th Cong., 2d Sess. (1960), p. 1):

> "Withhold all Federal financial support from any educational institution which permits members of its faculty to advocate communism, fascism, or nazism as a substitute for our form of government to the student body of these educational institutions."

Communist Control Act of 1954, 50 U.S.C. §§841-44. This statute contains a Congressional finding regarding the Communist Party of the United States and deprives it of all "rights, privileges, and immunities" under law. Members of the Party are declared to be members of a Communist action organization for purposes of the Internal Security Act. This statute has had only one application. See *Salwen* v. *Rees,* 16 N.J. 216, 108 A.2d 265 (1954). But consider *Albertson* v. *Subversive Activities Control Board,* 382 U.S. 70 (1965).

Espionage and Sabotage Act of 1954, Section 201, amending 18 U.S.C. §794. This statute increases the penalty for peace-time espionage and alters the sentencing authority for espionage by increasing the penalty to death or life imprisonment or any term of years.

Act of August 20, 1954, amending 18 U.S.C. §3486. This statute permits the granting of immunity from prosecution after the Fifth Amendment privilege has been claimed.

Act of June 30, 1954, 18 U.S.C. §798. Extends the expiration date of a specific espionage statute, 18 U.S.C. §794, until six months after the termination of the national emergency period proclaimed on December 16, 1950.

Communist Control Act of 1954, §13 A(e) as amended by the Act of July 26, 1955, 50 U.S.C. §792a(e). The report of the Legislative Reference Service refers particularly to section 792a(e)(1) providing that the Subversive Activities Control Board shall give consideration to Communist Party membership of an organization's officers within the past three years in determining whether an organization is Communist infiltrated.

Act of August 1, 1956, 50 U.S.C. §851 et seq. This statute requires the registration of persons engaged in or trained in espionage, sabotage or similar fields by a foreign government. The constitutionality of the aspects of this statute requiring disclosure of criminal activity is brought into question by the recent decisions in *United States* v. *Jackson,* 390 U.S. 570 (1968); *Marchetti* v. *United States,* 390 U.S. 39 (1968).

Act of July 24, 1956, amending 18 U.S.C. §§2384-85. This statute increases penalties for seditious conspiracy and advocating the overthrow of the government.

Labor Management Reporting and Disclosure Act of 1959, §504, 29 U.S.C. §504. The statute prohibits persons who have been members of the Communist Party within the previous five years from serving as union officers. The provision was declared unconstitutional in *United States* v. *Brown,* 381 U.S. 437 (1965).

Public Law 87-301 adding 8 U.S.C. §§349(c), 1105a. These sections place the burden of proof on the question of loss of nationality on the government and also relate to the exclusiveness of judicial review on deportation orders. The committee report on the bill was issued by the House Committee on the Judiciary rather than the Committee on Un-American Activities.

Public Law 87-369 repealing 18 U.S.C. §791. This statute ended the limitation of the espionage and censorship provisions of the criminal code to the Admiralty and Maritime jurisdiction of the United States. This bill was reported by the Committee on the Judiciary.

Public Law 87-486 amending 18 U.S.C. §2385. This statute defines the term "organize" in the Smith Act so as to avoid this Court's construction that the term referred only to acts entering into the creation of a new organization. See *Yates* v. *United States,* 354 U.S. 298 (1957).

Public Law 87-793, §305, adding 39 U.S.C. §4008. This statute permitted the Postmaster General to detain Communist propaganda sent through the mails and to determine whether the recipient wanted to receive the materials. The statute was declared unconstitutional in *Lamont* v. *Postmaster General of the United States,* 381 U.S. 301 (1965).

Public Law 88-290, adding 58 U.S.C. §831 et seq. The statute relates to security clearances for employees of the National Security Agency.

Public Law 87-474, §1(b) amending 50 U.S.C. §784. This statute relieves the Secretary of Defense of the obligation to publish a list of those defense facilities at which members of Communist-action organizations are prohibited from employment. This statute removed a deficiency from the Communist Control Act of 1954. The provision had

been rendered moot since 50 U.S.C. §784(a)(1)(D) was declared unconstitutional in *United States* v. *Robel,* 389 U.S. 258 (1967).

P.L. 90-237, amending the Internal Security Act of 1950. The act, inter alia, amends the Internal Security Act of 1950 to establish a system of public disclosure of Communist and Communist-front organizations and their members, requires the disclosure of Communist organizations using the mail to solicit money, provides a grant of immunity for compulsory testimony and production of evidence over self-incrimination claims, and prescribes penalties for misbehavior in the presence of the Subversive Activities Control Board.

The Committee has also claimed responsibility for approximately eleven executive orders dealing, inter alia, with immigration, international travel, and loyalty and security programs within the executive department of the government.

LIST OF HEARINGS OF UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON UN-AMERICAN ACTIVITIES, JANUARY 1, 1946 TO DECEMBER 31, 1967*

Hearing Number

Dates — *Title*

1. Jan. 30, 1946 — Hearings on Gerald L. K. Smith *City* — Washington, D.C.
2. Apr. 4, 1946 — Investigation of Un-American Propaganda Activities in the United States — Executive Board Refugee Committee. *City*—Washington, D.C.
3. Nov. 22, 1946 — Investigation of Un-American Propaganda Activities in the United States — Louis F. Budenz. *City* — Washington, D.C.
4. Feb. 6, 1947 — Investigation of Un-American Propaganda Activities in the United States—Gerhart Eisler. *City* — Washington, D.C.
5. Feb. 27, July 23-25, 1947 — Hearings regarding Communism in labor unions in the United States. *City* — Washington, D.C.
6. Mar. 5, 21, 1947 — Hearings regarding Leon Josephson and Samuel Liptzen. *City* — New York, N.Y.

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* This is a list of all those Committee publications entitled "hearings" and does not include transcripts of testimony contained in documents entitled "report" or "consultation."

7. Mar. 24-28, 1947 — Investigation of Un-American Propaganda Activities in the United States—Hearings on H.R. 1884 and H.R. 2122.
City — Washington, D.C.

8. Mar. 24, 1947 — Testimony of William C. Bullitt.
City — Washington, D.C.

9. Mar. 26, 1947 — Testimony of J. Edgar Hoover.
City — Washington, D.C.

10. Apr. 9, 1947 — Investigation of Un-American Propaganda Activities in the United States—Eugene Dennis
City — Washington, D.C.

11. July 21, 1947 — Testimony of Walter S. Steele.
City—Washington, D.C.

12. July 22, 1947 — Testimony of Victor Kravchenko.
City—Washington, D.C.

13. Sept. 24-26, 1947—Hearings regarding Hans Eisler.
City — Washington, D.C.

14. Oct. 20-24, 27-30, 1947 — Hearings regarding Communist infiltration of the motion picture industry.
City — Washington, D.C.

15. Feb. 5-6, 9-11, 19-20, 1948 — Hearings on proposed legislation to curb or control the Communist Party of the United States. *City*—Washington, D.C.

16. July 1, Sept. 10, 1948; Apr. 22, 26, May 25, June 10, 14, July 1, Aug. 14, 26, Sept. 10, 14, 27, 1949; Dec. 20-22, 1950 — Hearings regarding Communist infiltration of radiation laboratory and atomic bomb project at University of California, Berkeley, Calif. Parts 1-3. *City*—New York, N.Y.; Berkeley, Calif.

17. July 30, Aug. 7, 1948 — Hearings regarding Communism in the United States Government.
City — Washington, D.C.

18. July 30, Aug. 7, 1948; Apr. 20-21, 25, 29, May 4-6, June 8, Aug. 28, 31, Sept. 1, 15, 1950 — Hearings regarding Communism in the United States Government, Parts 1-2. *City*—Washington, D.C.

19. July 31, Aug. 3-5, 7, 9, 10-13, 16-18, 20, 24-27, 30, Sept. 8-9, Dec. 7, 10, 14, 1948 — Hearings regarding Communist espionage in the United States Government, Parts 1-2. *City*—Washington, D.C.

20. Sept. 9, 14, 16, 1948 — Excerpts from hearings regarding investigation of Communist activities in connection with the atom bomb. *City*—Washington, D.C.

21. Mar. 31, Apr. 1, 1949 — Documentary testimony of Gen. Izyador Modelski. *City*—Washington, D.C.

22. May 6, 1949 — Testimony of Paul Crouch.
City — Washington, D.C.

23. May 24, 1949 — Hearings regarding Clarence Hiskey including testimony of Paul Crouch.
City — Washington, D.C.

24. May 24-25, June 9, 1949 — Testimony of Philip O. Keeney and Mary Jane Keeney and statement regarding their background. *City* — Washington, D.C.

25. May 27, July 6, 1949 — Hearings regarding Toma Babin. *City* — Washington, D.C.

26. June 6, 1949 — Soviet Espionage Activities in connection with Jet Propulsion and Aircraft.
City — Washington, D.C.

27. June 8, 1949 — Hearings regarding Steve Nelson.
City — Washington, D.C.

28. June 28, 29, July 6, 12, 28, 1949; Dec. 6, 11-13, 1950; July 14-15, 1954 — Hearings regarding Communism in the District of Columbia. Parts 1-3.
City — Washington, D.C.

29. July 13-14, 18, 1949; Sept. 1, 1950 — Hearings regarding Communist infiltration of minority groups. Parts 1-2. *City*—Washington, D.C.

30. Aug. 9-11, Dec. 5-6, 13, 1949; Aug. 29-30, 1950 — Hearings regarding Communist infiltration of Labor Unions, security measures relating to officials of the UERMWA-CIO. *City* — Washington, D.C.

31. Aug. 14, Oct. 15, 1949 — Testimony of James Sterling Murray and Edward Tiers Manning (regarding Clarence Hiskey and Arthur Adams).
City — Washington, D.C.

32. Nov. 8, Dec. 2, 1949; Feb. 27, Mar. 1, 1950 — Hearings regarding Communist Espionage.
City — Washington, D.C.

33. Dec. 5, 7, 1949; Jan. 23-26, Mar. 2-3, 7, 1950 — Hearings regarding shipment of atomic material to the Soviet Union during World War II.
City — Washington, D.C.

34. Feb. 21-23, Mar. 13-14, 24-25, June 22, Sept. 28, Oct. 13, 21, 1950—Expose' of the Communist Party of Western Pennsylvania, Parts 1-3. *City* — Pittsburgh

35. Mar. 21-23, 28-30, April 4, May 2-4, 1950—Hearings on legislation to outlaw un-American and subversive activities. *City*—Washington, D.C.

36. Apr. 10-15, 17-19, 1950 — Hearings regarding Communist activities in the Territory of Hawaii, Parts 1-4. *City* — Honolulu, Hawaii

37. June 21, 1950 — Testimony of Philip A. Bart (general manager of Freedom of the Press, publishers of the Daily Worker, official organ of the Communist Party) and Marcel Scherer (coordinator, New York Labor Conference for Peace and *formerly district* representative of District 4, United Electric Radio and Machine Workers of America, CIO).
City — Washington, D.C.

38. July 12-15, Aug. 8, 1950 — Hearings regarding Communist activities in the Cincinnati, Ohio, area, Part 1.
City — Washington, D.C.

39. July 26, Aug. 30, Oct. 18-19, Dec. 4, 1950 — American Aspects of Assassination of Leon Trotsky.
City — Washington, D.C.

40. Sept. 22, 1950 — Testimony of Hazel Scott Powell.
City—Washington, D.C.

41. Oct. 27, Dec. 21, 1950 — Testimony of Edward G. Robinson. *City*—Washington, D.C.

42. Feb. 28, Mar. 9, 1951 — Hearings regarding Communist Activities among farm groups.
City — Washington, D.C.

43. Mar. 8, 21, Apr. 10-13, 17, 23-25, May 10, 16-18, 22-25, June 25, 26, Sept. 10-12, 17-21, 24-25, 1951; Jan. 24, 28, Feb. 5, Mar. 20, Apr. 10, 30, May 19-21, Aug. 19, Sept. 29, Nov. 12-13, 1952 — Communist infiltration of Hollywood motion-picture industry, Parts 1-10.
City—Washington, D.C.; Los Angeles, Calif.; Hollywood, Calif.

44. Mar. 14, Aug. 20-23, 1951 — Testimony of Oliver Edmund Clubb. *City* — Washington, D.C.

45. Mar. 21, 1951; Dec. 22, 1952; Feb. 17, Mar. 12, 23-28, Apr. 7-8, 13, June 2, Sept. 4, Nov. 23, Dec. 16, 1953 — Investigation of Communist Activities in Los Angeles.
City — Los Angeles, Calif.

46. June 11, 1951 — Investigation of Communist activities in the District of Columbia—Maryland area.
City—Washington, D.C.

47. June 19-21, 26-28, July 10-13, 1951 — Hearings relating to Communist activities in the defense area of Baltimore, Part 1 (based on the testimony of Mary Stalcup Markward), Parts 2-3.
City — Baltimore, Md.

48. July 13, 1951 — Communist tactics among veterans' groups. *City*—Washington, D.C.

49. July 23-24, Oct. 10-11, 1951—Expose' of Communist activities in the State of Massachusetts (based on the testimony of Herbert A. Philbrick).
City — Washington, D.C.

50. Aug. 9, 22-23, 1951 — Hearings on American aspects of the Richard Sorge spy case.
City—Washington, D.C.

51. Jan. 9-10, 15-17, 1952 — The role of the Communist press in the Communist conspiracy.
City — Washington, D.C.

52. Jan. 21-26, Apr. 9, May 22, July 8, Sept. 30, Oct. 1-3, 6-7, 1952 — Communist activities among professional groups in the Los Angeles area, Parts 1-4.
City—Washington, D.C.; Los Angeles, Calif.

53. Feb. 6-7, 1952—Communist activities among youth groups. *City*—Washington, D.C.

54. Feb. 14, 1952 — Testimony of Lynne L. Prout. *City*—Washington, D.C.

55. Feb. 25-29, Mar. 10-12, Apr. 29-30, 1952 — Communism in the Detroit area, Parts 1-2. *City*—Detroit, Mich.

56. May 6, June 10, 23, 1952 — Methods of Communist infiltration in the United States Government. *City* — Washington, D.C.

57. Sept. 2-5, 1952 — Communist activities in the Chicago area, Parts 1-2. *City*—Chicago, Ill.

58. Sept. 5, 1952 — Testimony of Dr. Edward U. Condon. *City* — Chicago, Ill.

59. Oct. 3, 1952; Mar. 16, May 28, June 2, 9, 14-19, 1954— Investigation of Communist activities in the Pacific Northwest. *City*—Chicago, Ill.; Los Angeles, Calif.; Washington, D.C.; Seattle, Wash., Portland, Ore.

60. Oct. 13, 1952 — Testimony of Gen. Walter Bedell Smith. *City* — Washington, D.C.

61. Oct. 13-16, 1952 — Communist activities in the Philadelphia area. *City* — Philadelphia, Pa.

62. Dec. 12, 1952 — Investigation of Communist Activities in Los Angeles. *City* — Los Angeles, Calif.

63. Feb. 25-27, Mar. 12-13, 17-18, Apr. 14, 16, 21-23, 27, 29, May 15, 19, 26-28, June 8, 22, 24, 29, July 1, 1953; Apr. 12, June 28-29, 1954 — Communist Methods of Infiltration (Education). *City* — Washington, D.C.

64. Apr. 17, May 14, June 9, July 20, Sept. 15, 1953; Jan. 15, Dec. 13, 1954 — Communist Methods of Infiltration (Government—Labor). *City* — Washington, D.C.

65. May 4-7, July 6-7, 13-14, 1953 — Investigation of Communist Activities in New York. *City*—New York, N.Y.

66. May 13-14, 1953 — Hearings on Soviet schedule for War, 1955. *City* — Washington, D.C.

67. June 8, 1953 — Investigation of Communist Activities in Michigan. *City* — Lansing, Mich.

68. June 15, 1953; Mar. 3-6, 16, May 3-6, July 25, 27-29, Aug. 1, 15-18, Oct. 14, 1955 — Investigation of Communist Activities, New York, Parts 1-8. *City*—Washington, D.C.; Hollywood, Calif.; New York, N.Y.

69. June 17-18, 1953 — Investigation of Communist Activities in Columbus, Ohio. *City* — Columbus, Ohio

70. July 1, 1953 — Hearings on Franciszek Jarecki — Flight to Freedom. *City* — Washington, D.C.

71. July 13-16, 1953; Apr. 7-9, 1954 — Investigation of Communist Activities in Albany, N.Y. *City* — Albany, N.Y.

72. July 21, 1953 — Testimony of Bishop G. Bromley Oxnam. *City* — Washington, D.C.

73. July 30-31, 1953 — Hearings regarding Jack R. McMichael. *City* — Washington, D.C.

74. Sept. 11, 1953; Feb. 1, 24, Mar. 1, 12, 14, 17, 19-22, Apr. 12, 14, 19-23, Sept. 17, 1954 — Investigation of Communist Activities in the State of California. Parts 1-11. *City* — Washington, D.C.; Los Angeles, Calif.; San Diego, Calif.

75. Sept. 24, 1953 — Testimony of Dr. Marek Stanislaw Korowicz. *City* — Washington, D.C.

76. Nov. 16-18, 1953; Feb. 16-17, July 30, 1954 — Investigation of Communist Activities in Philadelphia, Pa., Parts 1-5. *City* — Philadelphia, Pa.

77. Dec. 1-5, 1953 — Investigation of Communist Activities in the San Francisco Area.
City — San Francisco, Calif.

78. Dec. 16, 1953; June 27-30, July 1-2, Oct. 13, 1955; Apr. 16-17, 19-21, June 6, July 5, 1956 — Investigation of Communist Activities in the Los Angeles, California Area. Parts 1-5, 7-11.
City — Los Angeles, Calif.

79. Jan. 13, 18, Dec. 14-15, 1954 — Communist Methods of Infiltration (Entertainment).
City — Washington, D.C.

80. Mar. 15-16, Apr. 29, 1954 — Investigation of Communist Activities in the Chicago Area.
City — Washington, D.C.; Chicago, Ill.

81. Mar. 25-26, May 18, 1954 — Investigation of Communist Activities in Baltimore Area.
City — Baltimore, Md.

82. Apr. 28-30, May 3-5, 7, 10-14, Nov. 17-19, 1954 — Investigation of Communist Activities in State of Michigan. Parts 1-12. *City* — Detroit, Lansing, Flint, Mich.; Washington, D.C.

83. July 8, 15, 1954 — Investigation of Communist Influence in the Field of Publications.
City — Washington, D.C.

84. July 12, 1954 — Hearings on Communist Activities among youth groups. *City* — Washington, D.C.

85. Sept. 13-15, Nov. 17-19, 1954 — Investigation of Communist Activities in Dayton, Ohio.
City — Dayton, Ohio; Washington, D.C.

86. Nov. 29-30, Dec. 1, 1954 — Investigation of Communist Activities in the State of Florida. *City* — Miami, Fla.

87. Feb. 28, Mar. 1, Apr. 25, 1955 — Investigation of Communist Activities in the Fort Wayne, Ind. Area.
City — Washington, D.C.

88. Mar. 17-19, June 1-2, 1955 — Investigation of Communist Activities in the Seattle, Wash. area—Parts 1-3. *City* — Seattle, Wash.; Washington, D.C.

89. Mar. 28-30, May 3, 1955 — Investigation of Communist Activities in the Milwaukee, Wis. Area, Parts 1-2. *City* — Milwaukee, Wis.

90. May 16-19, July 13, 1955; July 24, 1957 — Hearings on investigation of Communist Activities in the Newark, N.J., area. Parts 1-2, and Supplement.
City — Newark, N.J.

91. July 5-6, 1955 — Investigation of Communist Activities in the San Diego, Calif. Area.
City — San Diego, Calif.

92. July 13, 1955 — Investigation of Communist Activities in the Ohio Area. (Testimony of Keve Bray.)
City — Washington, D.C.

93. Aug. 2-5, 1955 — Investigation of Communist Activities (The Committee to Secure Justice in the Rosenberg Case and Affiliates). Parts 1-2.
City — Washington, D.C.

94. Dec. 13-15, 1955; Feb. 14-16, 21, 23-24, 28-29, Mar. 1, June 20, 28, 1956 — Investigation of Communist Infiltration of Government. Parts 1-6.
City — Chicago, Ill.; Washington, D.C.

95. Feb. 28, 1956; Oct. 7, 8, 9, Nov. 29, 1957; Feb. 25, 1958 — Investigation of Soviet Espionage. Parts 1-2.
City — Washington, D.C.

96. Mar. 12-14, 1956 — Investigation of Communist Activities in North Carolina Area. *City*—Charlotte, N.C.

97. May 10-11, 1956 — Hearings on Attempts at Subversion and Espionage by Diplomatic Personnel.
City — Washington, D.C.

98. May 15-18, 1956 — Investigation of Communist Activities in the Rocky Mountain Area. Parts 1-2.
City — Denver, Colo.

99. May 23, 25, June 12-14, 21, 1956; July 26, 1957 — Investigation of the Unauthorized Use of United States Passports. Parts 1-5. *City*—Washington, D.C.

100. June 2, 4-6, 8, 1956 — Investigation of Communist Activities in the St. Louis, Mo. Area. Parts 1-4.
City — St. Louis, Mo.

101. June 13, July 17, Dec. 10-11, 1956; Feb. 14, Mar. 12-14, 26-27, Oct. 1, 1957; June 11-12, 1958 — Investigation of Communist Propaganda in the United States. Parts 1-9. *City* — Washington, D.C.; Chicago, Ill.; Buffalo, New York, N.Y.; New Orleans, La.; Philadelphia, Pa.; San Francisco, Calif.

102. June 18-19, 1956 — Investigation of Communist Propaganda Among Prisoners of War in Korea. (Save Our Sons Committee.) *City* — Washington, D.C.

103. July 10-13, 17-18, 1956 — Investigation of So-Called Blacklisting in Entertainment Industry—Report of the Fund for the Republic, Inc. Parts 1-3.
City — Washington, D.C.

104. July 18, 1956 — Investigation of the Award by the Fund for the Republic, Inc. (Plymouth Meeting, Pa.)
City — Philadelphia, Pa.

105. Sept. 10-11, 1956; Feb. 26-27, 1957 — Investigation of Communist Activities in the New Haven, Conn. Area. Parts 1-3. *City* — New Haven, Conn.

106. Sept. 10-11, 1956 — International Communism (Testimony of Ernest Tillich). *City* — Washington, D.C.

107. Nov. 12-14, 28, Dec. 3-4, 5-8, 11, 13-14, 1956 — Communist Political Subversion. Parts 1-2. *City*—Washington, D.C.; Youngstown, Ohio; Chicago, Ill.; Los Angeles, San Francisco, Calif.; Seattle, Wash.

108. Nov. 26-27, 1956 — Investigation of Communist Activities in the Youngstown and Northern Ohio Areas. *City* — Youngstown, Ohio

109. Jan. 30, 1957 — International Communist Propaganda Activities. *City* — Washington, D.C.

110. Feb. 1, 1957 — International Communism—Red China and the Far East. (Testimony of Chiu-Yuan Hu.) *City* — Washington, D.C.

111. Feb. 7-8, Apr. 9-12, 1957 — Investigation of Communism in the Metropolitan Music School, Inc. and Related Fields. Parts 1-2. *City* — New York, N.Y.

112. Feb. 15, 1957 — Investigation of Communist Activities in the New Orleans, La., Area. *City* — New Orleans, La.

113. April 1, 1957; May 8, June 18-19, 1958 — Communism in the New York Area—Entertainment. *City* — New York, N.Y.

114. May 7, 8, 9, 1957 — Investigation of Communist Activities in the Baltimore, Md. Area. Parts 1-2. *City* — Baltimore, Md.

115. June 18-21, 1957 — Hearings held in San Francisco, Calif. Parts 1-2. *City* — San Francisco, Calif.

116. July 17-19, Aug. 2, 9, Oct. 9, 1957 — Investigation of Communist Penetration of Communications Facilities. Parts 1-2. *City* — Washington, D.C.

117. Oct. 2-4, 1957 — Investigation of Communist Propaganda in the United States in the Buffalo, New York Area. Parts 1-2. *City* — Buffalo, N.Y.

118. (Hearing 118 included as part of Hearing 101.)

119. Oct. 7-9, Nov. 20, 1957 — Investigation of Soviet Espionage. *City* — Washington, D.C.

120. Feb. 10-11, 1958 — Investigation of Communist Infiltration and Propaganda Activities in Basic Industry (Gary, Ind. Area). *City* — Gary, Ind.

121. March 14, 18-21, 1958 — Investigation of Communist Activities in the New England Area. Parts 1-3. *City* — Washington, D.C.; Boston, Mass.

122. July 29-31, 1958 — Communist Infiltration and Activities in the South. *City* — Atlanta, Ga.

123. Sept. 3-5, 1958 — Communist Infiltration and Activities in Newark, N.J. *City* — Newark, N.J.

124. Sept. 2-5, 1958; Feb. 24, 25, 1959 — The Southern California district of the Communist Party; Structure—Objectives—Leadership. Parts 1-3. *City* — Los Angeles, Calif.

125. Mar. 10-12, 1959 — Current Strategy and Tactics of Communists in the United States (Greater Pittsburgh Area, Part 1). Problems of Security in Industrial Establishments Holding Defense Contracts (Greater Pittsburgh Area, Part 2). Problems Arising in Cases of Denaturalization and Deportation of Communists (Greater Pittsburgh Area, Part 3). *City* — Pittsburgh, Pa.

126. Mar. 17, 1959 — The Kremlin espionage and terror organizations—Testimony of Peter S. Deriabin. *City* — Washington, D.C.

127. Apr. 21-24, June 5, 1959 — Passport Security—Part 1 (Testimony of Harry R. Bridges). Passport Security—Part 2. *City* — Washington, D.C.

128. May 5-7, 1959 — Communist Infiltration of Vital Industries and Current Communist Techniques in the Chicago, Ill. Area. *City* — Chicago, Ill.

129. July 1, 1959 — The American National Exhibition, Moscow, July, 1959. *City* — Washington, D.C.

130. July 21, 22, 1959; Feb. 2-5, Mar. 2, 1960 — Communist Training Operations. Parts 1-3. *City* — Washington, D.C.

131. July 22, 1959 — Testimony of Clinton Edward Jencks. *City* — Washington, D.C.

132. Sept. 22, 1959 — Testimony of Arnold Johnson, Legislative Director of the Communist Party, U.S.A. *City* — Washington, D.C.

133. Oct. 20-22, 1959 — Western Section of the Southern California District of the Communist Party—Parts 1-3. *City* — Los Angeles, Calif.

134. Nov. 16-17, 18-20, 1959—Communist Activities Among Puerto Ricans in New York City and Puerto Rico (New York City) Part 1; (San Juan, Puerto Rico) Part 2. *City* — New York, N.Y.; San Juan, P.R.

135. Feb. 25, 1960 (Date of release)— Issues Presented by Air Reserve Center Training Manual (executive session). *City* — Washington, D.C.

136. May 10, 1960 — Investigation of Communist Espionage in United States (Testimony of Frantisek Tisler). *City* — Washington, D.C.

137. May 12-14, June 10, 1960—Northern California District of the Communist Party (Structure-Objectives-Leadership) Parts 1-4. *City* — San Francisco, Calif.

138. May 26, 1960 — Testimony of Anthony Krchmarek and Charles Musil. *City* — Washington, D.C.

139. June 6-8, 23, 1960 — Communist Activities Among Seamen and On Waterfront Facilities—Part 1. *City* — Washington, D.C.

140. Aug. 23-24, 1960 — Communist Penetration of Radio Facilities (Conelrad-Communications)—Part 1. *City* — Washington, D.C.

141. Sept. 14, 1960 — Testimony of Capt. Nikolai Fedorovich Artamonov (Former Soviet Naval Officer). *City* — Washington, D.C.

142. May 31, June 7, Aug. 16, 1961 — Hearings re H.R. 4700 (re SACA). *City* — Washington, D.C.

143. Sept. 16, 1961 — Hearings re Revision of H.R. 9120, etc. *City* — Washington, D.C.

144. Nov. 20-22, 1961 — Structure and Organization of the Communist Party of the United States. Parts 1-2. *City* — Washington, D.C.

145. Feb. 7, 1962 — Hearings re H.R. 9753, etc. *City* — Washington, D.C.

146. March 15, 1962 — Hearings on H.R. 10175. *City* — Washington, D.C.

147. Apr. 24-27, 1962. 'United Front' Technique of the Southern California District of the Communist Party. *City* — Los Angeles, Calif.

148. Apr. 25-27, Oct. 4, 1962 — Communist Youth Activities, Helsinki Festival. *City* — Washington, D.C.

149. April 26-27, 1962 — Communist and Trotskyite Activity within the Greater Los Angeles Chapter of the Fair Play for Cuba Committee.
City — Washington, D.C.

150. May 9, 10, 17, July 11, 12, 1962 — Communist Outlets for Distribution of Soviet Propaganda in the United States. *City* — Washington, D.C.

151. May 22, 1962 — Investigation of Communist propaganda and the truth about conditions in Russia.
City — Washington, D.C.

152. May 24, 25, 1962 — "Intellectual freedom" — Red China Style (testimony of Chi-chou Huang).
City — Washington, D.C.

153. June 4-5, 1962 — Investigation of Communist Activities in Cleveland, Ohio. *City* — Cleveland, Ohio

154. Nov. 14-15, 1962 — Investigation of U.S. Communist Party Assistance to Foreign Communist Governments (Medical Aid to Cuba and Friends of British Guiana).
City — Washington, D.C.

155. Dec. 11-13, 1962 — Hearings re Communist Activities in the Peace Movement (Women Strike for Peace and Certain Other Groups). *City*—Washington, D.C.

156. Mar. 6, 1963 — U.S. Communist Party assistance to foreign Communist governments.
City — Washington, D.C.

157. May 6, 7, 23, July 1-2, Aug. 5, Sept. 12-13, Oct. 16, Nov. 18, 1963; Sept. 3-4, 1964 — Violations of State Department Travel regulations and pro-Castro propaganda activities in the United States.
City — Washington, D.C.; Los Angeles, Calif.

158. July 29, 1963 — U.S. Communist Assistance to Foreign Communist Parties (Veterans of the Lincoln Brigade). *City* — Washington, D.C.

159. Sept. 19, 1963 — Investigation of the defection of a Russian seaman. *City* — Washington, D.C.

160. Feb. 18-20, Apr. 7, 8, May 19, 20, 1964 — Hearings on H.R. 352. Parts 1-2. *City* — Washington, D.C.

161. Apr. 29-30, 1964 — Investigation of Communist Activities in Buffalo, N.Y. *City* — Buffalo, N.Y.

162. May 5, 1964 — Testimony of Rev. James H. Robinson. *City* — Washington, D.C.

163. June 24-26, 1964 — Hearings on Communist activities in Minneapolis, Minnesota area. *City* — Minneapolis, Minn.

164. July 12, 1964; April 27-28, 1966 — Communist Activities in the Central California Area. *City* — San Francisco, Calif.

165. Mar. 21, Apr. 1, 28, May 7, 14, 1965 — Hearings re H.R. 470, etc. *City* — Washington, D.C.

166. May 25-27, June 22, 1965 — Hearings re investigation of Communist Activities in Chicago, Illinois. *City* — Chicago, Ill.

167. June 11, 1965 — Testimony of Juanita Castro Ruz. *City*—Washington, D.C.

168. Oct. 19-22, 25-28, Nov. 1-4, 9, 1965 (Additional Dates) —Activities of the Ku Klux Klan Organizations in the United States. Parts 1-5. *City*—Washington, D.C.

169. Apr. 6, 1966 — Testimony of Wlayslaw Tykocinski. *City*—Washington, D.C.

170. July 20-22, 1966 — Hearings on H.R. 15678, etc. *City*—Washington, D.C.

171. Aug. 16-19, 22-23, 1966 — Hearings on H.R. 12047 (Bill to make punishable assistance to enemies of the United States in the time of undeclared war). *City* — Washington, D.C.

172. Aug. 10, 1967 — The New Communist Propaganda Line on Religion. *City* — Washington, D.C.

173. Aug. 15-18, 1967 — Hearing relating to H.R. 10390, H.R. 10391 and H.R. 10681, Amending the Internal Security Act of 1950. *City* — Washington, D.C.

174. Sept. 6, 1961 — Testimony by and concerning Paul Corbin. *City* — Washington, D.C.

175.* Apr. 6, 7, May 10, June 15, Nov. 15, 1967 — Conduct of Espionage within the United States by Agents of Foreign Communist Governments. *City*—Washington, D.C.

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* Published after commencement of Zeisel study. See Appendix 5.

APPENDIX 5

A PROFILE OF THE HEARINGS BEFORE THE HOUSE COMMITTEE ON UN-AMERICAN ACTIVITIES

Preliminary Report

Hans Zeisel

Certain allegations have been made concerning the procedures used by the House Committee on Un-American Activities since its establishment in 1946 as a standing committee of the House of Representatives. I have been asked to undertake a study to test these allegations as they apply to hearings conducted by the Committee. The present study has been designed to answer in precise quantitative terms a series of questions of which the following are examples: "How often did the Committee ask questions about alleged misdeeds that occurred 5 years or more prior to the hearing?"; "How frequently did the Committee ask leading questions?"; "How many questions concerning alleged misdeeds were asked after the witness had refused to answer one, claiming constitutional immunity?"

SAMPLING

One way of answering such questions would have been to go through all the 174 hearings the House Committee has held since 1946, in which 3125 witnesses appeared, and count whatever required counting. Given the resources and the time available, this was an obviously impossible route to follow. However, statistical sampling techniques are now available that allow, within calculable error limits, sufficiently precise numerical projections to the whole from a properly selected sample.

The courts have increasingly recognized the indispensability of such sampling operations and have accorded them high credibility, provided the operation was expertly conducted. The literature on sampling statistics as legal evidence is growing and has achieved an important place both in the statistical and legal literature.[1]

THE SAMPLING PLAN

The present study is based on a sample of 100 witnesses, drawn from the total of 3125 witnesses who appeared before the House Committee between January 1946 and December 1967. The 174 hearings at which these witnesses appeared were numbered consecutively based on the dates of the printed hearing transcripts, and the witnesses in these hearings were then numbered consecutively as well. The detailed sampling plan and actual selection were designed in cooperation with Professor Paul Meier, former Chairman of the Department of Statistics, University of Chicago. The essence of this, as of any other, sampling

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[1]See: Samples and Polls, in Streamlining the Big Case, Section C, Report of the Special Committee of The Section of Antitrust Law, American Bar Association, Sept. 15, pp. 31-37 (1958); Zeisel, Statistics as Legal Evidence, article in International Encyclopedia of the Social Sciences, Vol. 15, pp. 246-250, Macmillan, (1968); idem, The Uniqueness of Survey Evidence, 45 Cornell L. Q. 322-346, 1960). Sampling operations are now extensively used by the United States Census itself. The Bureau of the Census discovered that for many of its questions it was unnecessary to interview the entire U.S. population, that it was in fact sometimes better to rely instead on a properly selected sample. Answers from such sampling operations, were often found to have a higher reliability than the corresponding census operations, because a census operation among 200 million people is necessarily unprecise at the fringes, and this error is sometimes greater than the sampling error in a carefully conducted sampling operation.

plan was to give every unit (every witness) in each stratum the same chance of becoming part of the sample. This is achieved with the help of so-called random numbers, the scientific counterpart of what is accomplished by a perfect lottery drawing.

In order to meet a request that greater emphasis be given to the examination of the more recent hearings of the House Committee, witnesses were divided into two strata: the 1993 witnesses in the 108 hearings that began before January 1, 1957, and the 1132 witnesses that appeared in the 66 hearings that began after January 1, 1957. Two-thirds of the sample, or 67 witnesses were selected from the later period, the remainder of 33 sample witnesses from the earlier period.

Hence the sampling ratio—the ratio of the sample to the universe from which it was drawn—is for the earlier period:*

33 out of 1993
or
1 in 60.4

for the later period:

67 out of 1132
or
1 in 16.9

Wherever in the following tables the two strata are combined, covering the whole period 1946-1967, account was, of course, taken of these different sampling ratios.

CONTENT ANALYSIS

Once the 100 sample witnesses were thus selected, their testimony and the questions asked of them by the Com-

*See Table 1.

mittee were subjected to a detailed type of analysis that is technically known as Content Analysis.[2]

In this analysis, every question asked by the Committee or by its counsel was considered a separate unit about which one had to ascertain certain points, such as: "Did the question concern an activity or event involving only the witness or did it also involve other persons?" Or: "If an organization was involved in the question, which organization was it?" Or: "Did the witness answer the question; if not, what was his response?" etc.

Thus, for every single question asked of each witness a separate code sheet was filled out that covered 12 different items. (See Attachment A.)

In addition, a Summary Sheet was completed for every witness. It recorded 29 items, such as whether the witness was heard in public or executive session; whether he was accompanied by counsel; whether he ever refused to answer a question, and so forth. (See Attachment B.)

All these forms were completed by an expert coder, under detailed instructions which I had drawn up. (See Attachment C.) All questionnaires that were subsequently tabulated were checked by me personally as to their accuracy.

THE COMPUTER

From then on, the coded information on the forms was transferred to IBM punch cards, the punching was verified, and the tables run on IBM Computers.

The operation described above, beginning with the drawing of the sample, through coding, punching, and tabulation on the computer, provided the information on which the following results of the study are based.

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[2] See article Content Analysis, International Encyclopedia of Social Science, Vol. 3, pp. 371-377, Macmillan (1968).

PRESENT TABULATIONS

At this stage of the study, tabulations have been completed for the major category of witnesses, namely those who indicated lack of cooperation by refusing to answer one or more questions put to them by the Committee.

These witnesses constitute 76 per cent of the sample, and hence it is our best estimate that this category of witnesses constitutes also 76 per cent of the total universe of 3125 witnesses. It is this category of witnesses that is being analyzed in detail.

TYPE OF QUESTIONS ANALYZED

Although we have information on every question asked of the 100 witnesses in the sample, we have omitted from most of the following tabulations those questions that deal only with procedure, identification (name, etc.), or other neutral matters. The present analysis concentrates on those questions that concern an alleged misdeed, committed either by the witness himself, or by another person allegedly known to the witness, or by an organization, or by any combination of the three.[3] It is this latter group of questions that are directly related to the test of allegations about the Committee.

THE KU KLUX KLAN HEARING

Of the 174 hearings held by the House Committee on Un-American Activities, 2 involved right wing groups. One of these, Hearing No. 1, had only one witness—Gerald L. K. Smith. He happened not to fall into the sample. The other such hearing (No. 168) involved the Ku Klux Klan. Of its total of 190 witnesses, 12 fell into the sample,

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[3]For the definition of "Misdeed Question" see Coding Instructions, Attachment C.

11 of whom were uncooperative witnesses. Since the hearings of these witnesses differed in some respects from the other hearings, we occasionally draw attention to the nature of these differences, by comparing the examination of the KKK witnesses with the witnesses in the other hearings.

THE CHICAGO 1965 HEARING

At several points, also, the Chicago 1965 hearing will be compared with the findings concerning *all* hearings. The Chicago hearing forms, of course, also part of the sample study that covers *all* hearings.[4] But for this special comparison we have collected and analyzed the testimony of *all* the witnesses heard in the Chicago hearing, hence we have technically taken a census of that hearing.

Some Findings

1. Three-quarters of the 3,125 witnesses who have appeared before the House Committee on Un-American Activities, that is, an estimated total of 2,375 witnesses, have been uncooperative in the sense that they refused to answer one or more questions put to them by the Committee. (Table 2)

2. These witnesses have been asked an estimated total of 158,100 questions. About one-third of these, or 50,500, were misdeed questions, that is, questions in which an action was alleged (committed by either the witness or by others) which in the eyes of the Committee was a misdeed. (Table 3) On the average, each witness was asked about 21 such misdeed questions. (Table 4)

3. The misdeeds alleged in these questions have been only to a small extent outright "criminal" actions (such

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[4]In fact, one witness of the Chicago hearing happened to fall into the 100 witness sample.

as espionage, sabotage or other criminal acts); only 6 per cent of all misdeed questions (in the Chicago hearing only 2 per cent) fall into that category (Table 5); for the most part these misdeed questions concerned political activities.

4. The misdeed questions referred for the most part to acts allegedly committed by the witness himself (82 per cent), but 41 per cent of the questions asked also about the misdeeds of specified other persons (with or without specific reference being made to various organizations). (Table 6)

5. As to the time of the action these misdeed questions referred to, 23 per cent of them referred to a time 5 or more years prior to the hearings at which the question was asked. For the questions in the Chicago hearing the corresponding proportion was 47 per cent, that is, approximately half of the questions concerned events 5 or more years before that hearing. (Table 7)

6. The number of leading questions was counted among all the misdeed questions asked by the Committee. The proportion of such questions was 11 per cent on the average for all hearings. (Table 8)

7. What was the response of these uncooperative witnesses to the misdeed questions asked of them? For all hearings taken together, 60 per cent of all questions met with the witness' formal refusal to answer. In another 5 per cent of the questions, the witness remained unresponsive without any formal refusal; in 6 per cent of the questions the witness answered with some procedural request for repeating the question, or for clarification: to 29 per cent of the questions, the Committee obtained a response.

These percentages were quite different for the KKK hearing; here the majority of questions were responded to even by those witnesses who at one point had formally refused to answer a question. At all hearings *other than* KKK, the per cent of response was 18%. (Table 9)

8. As to the grounds for the formal refusal to answer a question, Table 10 gives them for the first refusal by each witness—subsequent refusals usually refer back to these reasons or repeat them: 40 per cent of the witnesses cited the Fifth Amendment to the Constitution; 51 per cent cited the Fifth and the First Amendment; and a small group cited only the First Amendment, and other grounds. Taken together, 91 per cent of the witnesses cited the Fifth Amendment either alone or in conjunction with another ground. (Table 10)

9. The great bulk of the misdeed questions, 93 per cent of them, have been asked after the witnesses had made their first formal refusal to answer a question. (Table 11)

10. Each uncooperative witness was asked, on the average, one misdeed question before he registered his first refusal to answer a question. The remaining 20 questions —again on the average—were asked of him after his first refusal. (Table 12)

11. We now concentrate on the misdeed questions asked after the witness' first refusal. 62 per cent of the questions met with the witness' formal refusal to answer the question. To another 11 per cent of the questions, the witness failed to reply, by simply being unresponsive or by asking for clarification. Thus the Committee obtained a responsive answer to 27 per cent of the misdeed questions asked after the first refusal. (Table 13)

This 27 per cent average for all hearings, however, is not the figure found in all individual hearings. In the

KKK hearing 72 per cent of the misdeed questions asked after the 1st refusal received a responsive answer, and the average for all other hearings is only 16 per cent. (Table 13)

12. Looked at not in terms of averages, but in terms of the actual, witness by witness response, the figures reveal that these averages are composed of widely different individual responses. Some witnesses answer no further question, once they refused to answer one, others answer very many of them. What are the relative frequencies with which the witnesses answer questions after their first refusal? Tables 14 and 15 give these answers:

i) The left end of the bottom line of Table 14 indicates that 59.6 per cent of all these witnesses answered none of the questions asked of them by the Committee.

ii) Moving now to the right top end of Table 14 we note that 0.7, not quite 1 per cent, of all witnesses accounted for 40.5 per cent of all answers; and 1.4 per cent of all witnesses accounted for 50.4, that is for one-half of all answers.

iii) These 1.4 per cent of all uncooperative witnesses are special also in another way: they were witnesses from the Ku Klux Klan hearings; they are the ones who account for the relatively high response in that hearing. (See Table 13)

iv) Table 15, which is a condensation of Table 14, indicates that 12% of the witnesses account for 88% of all answers to misdeed questions (after their first refusal).

13. Going one step further in analyzing the response of these witnesses, we tried to determine the answer to the

following question: In what percentage of the cases in which the witnesses *did* give an answer that was formally responsive to a misdeed question, was this answer also substantively responsive, in the sense that the Committee actually obtained some information.

In other words, we analyze here the nature of the response to the 27 per cent of all questions to which the Committee received a "response." (Table 13) The pattern is roughly as follows: in one half of all cases (52%), the witness confirmed the allegation; in one quarter of the cases (22%) he denied it; and in another quarter (26%) of the cases he did not respond to the substance (last column in Table 16).

14. When the affirmative answers (Table 16) are further analyzed as to the time period in which the affirmed misdeed had taken place, 16 per cent of these answers in all hearings pertained to misdeeds that occurred 5 years or more prior to the hearing. Again the pattern is different for the KKK hearing, where the proportion is but 2 per cent, and for the rest of the hearings, where it is 46 per cent (Table 17).

Table 1

Sampling Plan

	Before Jan. 1, 1957	After Jan. 1, 1957	Total
Number of Hearings	108	66	174
Number of Witnesses	1,993	1,132	3,125
Sample Size	33	67	100
Sampling Ratio	1 in 60.4 witnesses	1 in 16.9 witnesses	

Table 2

Number of Uncooperative Witnesses

A. SAMPLE

	Before Jan. 1, 1957	After Jan. 1, 1957	Total Sample
All Witnesses	33	67	100
Uncooperative Witnesses	25	51	76
Per Cent Uncooperative of All Witnesses	76%	76%	76%

B. PROJECTION TO HEARINGS

	Before Jan. 1, 1957	After Jan. 1, 1957	All Hearings
(a) Number of All Witnesses (Count)	1,993	1,132	3,125
(b) Per Cent Uncooperative (Sample)	76%	76%	76%
(a x b) Number of All Uncooperative Witnesses	1,515	860	2,375

Table 3

Number of All Questions and Number of Misdeed Questions Asked by the Committee—

All Hearings 1946-67

i) All Questions

1847 questions in sample before 1957	X 60.4* =	111,559
2754 questions in sample after 1957	X 16.9* —	46,544
Total (rounded off)		158,100

ii) Misdeed Questions

500 questions in sample before 1957	X 60.4* =	30,200
1202 questions in sample after 1957	X 16.9* =	20,314
Total (rounded off)		50,500

*See bottom line of Table 1.

Table 4

Number of Questions asked of the Uncooperative Witnesses

	All Questions		Misdeed Questions	
	All Hearings 1946-67	Chicago 1965	All Hearings 1946-67	Chicago 1965
Total Number of Questions	158,100*	719	50,500*	333
Average Number of Questions Per Witness:				
Mean**	67	65	21	30

*From Table 3.

**These means were obtained by dividing the total number of questions by the number of uncooperative witnesses who appeared, i.e.:

	All Hearings 1946-67	Chicago 1965
Number of Uncooperative Witnesses	2,375	11

The number 2,375 constitutes the uncooperative 76 per cent of the 3,125 witnesses who appeared before the Committee. For the Chicago hearing, the number 11 includes all uncooperative witnesses except the 3 who left the hearing before their questioning could begin. The number 3,125 is the actual count of the witnesses, listed as appearing before the Committee between 1946 and 1967. The figure of 76 per cent is based on the count in the sample of 100 witnesses. (See Table 2.)

Table 5

Type of Action Involved in the Misdeeds Alleged in the Committee's Question

	All Hearings 1946-67	Chicago 1965
	%	%
Clearly Criminal Acts	6	2
Political Activities (membership, attending meetings, etc.)	77	91
Knowing Alleged Subversives, Holding Suspect Views, etc.	12	8
Other Not Clearly Criminal Actions	7	3
Total (Base)	100%*	100%
Number of Questions in Sample	(1,702)	(333)

*The percentages add up to more than 100% since more than one category of non-criminal action may be involved in alleged misdeed.

Table 6

Persons Involved in Alleged Misdeed

	All Hearings 1946-67		Chicago 1965	
	%		%	
Witness but not Other Persons	53	Witness 82%	67	Witness 96%
Witness with Others	29	Others 41%	29	Others 31%
Others but not Witness	12		2	
Organization Only	6		2	
Total	100%		100%	
Number of Questions in Sample	(1,702)		(333)*	

* Full count — not sample.

Table 7

Proportion of Misdeed Questions Referring to Events that Occurred 5 Years or More Before the Hearing

	Questions in All Hearings 1946-67		Questions in Chicago 1965	
	Per Cent in Sample	Projected to Total Number	Per Cent	Number
Less than 5 years*	77	(38,900)	53	(176)
5 years or more	23	(11,600)	47	(157)
Total	100%	(50,500)**	100%	(333)**

* Includes unspecified time.

** See Table 4.

Table 8

Per Cent of Misdeed Questions That Were Leading Questions

	All Hearings 1946-67	Chicago 1965
	11%	12%
Number of Questions in Sample (=100%)	(1702)	(333)

Table 9

Response to the Misdeed Questions

	All Hearings Except KKK	KKK Hearings	All Hearings 1946-67	Chicago 1965
	%	%	%	%
Responsive	18	74	29	—
Formal Refusal	70	23	60	86
Unresponsive Without Formal Refusal	6	1	5	—
Request for Repeat, Clarification, etc.	6	2	6	14
Total	100%	100%	100%	100%
Number of Questions in Sample	(1081)	(621)	(1702)	(333)*

*Full Count

Table 10

Grounds Stated for First Refusal To Answer

	All Hearings 1946-67		Chicago 1965
	%		%
Fifth Amendment Only	40	Total 5th 91%	0
Fifth and First Amendment	51		91
First Amendment Only	2	Total 1st 53%	9
Other Grounds Not Including Fifth or First Amendment	6		0
	100%		100%
Number of Uncooperative Witnesses	(75)*		(11)

* One witness, who was released from her subpoena and not questioned, is excluded.

Table 11

Per Cent and Number of Misdeed Questions Asked Prior To, At and After the First Refusal

	All Hearings 1946-67		Chicago 1965
	% in Sample	Projection	Number
Before 1st Refusal	5	(2,500)	(——)
At 1st Refusal*	2	(1,100)	(1)
After 1st Refusal	93	(46,900)	(332)
Total	100%	(50,500)	(333)
Number of Questions in Sample	(1702)		

*Many witnesses made their first refusal not in reply to a misdeed question, but to another question such as "What is your address?"

Table 12

Average Number of Misdeed Questions Asked of the Witnesses Before and After the First Refusal

	Number of Questions
Before 1st Refusal	1*
After 1st Refusal	20**
Total	21

*2,500 questions (Table 11), divided by 2,375 witnesses (Table 2) equals 1.1 questions.

**46,900 questions (Table 11), divided by 2,375 witnesses (Table 2) equals 20 questions.

Table 13

Response to the Misdeed Questions Asked After the First Refusal

	All Hearings Except KKK	KKK Hearings	All Hearings 1946-67	Chicago 1965
Responsive	16	72	27	—
Formal Refusal	71	25	62	86
Unresponsive Without Formal Refusal	6	1	5	—
Request for Repeat, Clarification, etc.	7	2	6	14
Total	100%	100%	100%	100%
Number of Questions in Sample	(1014)	(557)	(1571)	(332)*

*Full count

Table 14

Per Cent of Uncooperative Witnesses Who Give the Indicated Number of Answers to Misdeed Questions Questions Asked Them After Their 1st Refusal

Number of Questions Answered	(a) Per Cent by: of All Witnesses	(b) Per Cent of All Answers	(a) Cumulative* Per Cent of All Witnesses provide:	(b) Per Cent of All Answers
310	.7	40.5	.7	40.5
76	.7	9.9	1.4	50.4
37	2.6	17.4	4.0	67.8
29	.7	3.8	4.7	71.6
24	.7	3.1	5.4	74.7
17	.7	2.2	6.1	76.9
14	.7	1.8	6.8	78.7
13	2.6	6.1	9.4	84.8
6	3.3	3.6	12.7	88.4
5	5.9	5.4	18.6	93.8
4	1.4	1.0	20.0	94.8
3	.7	.4	20.7	95.7
2	6.6	2.4	27.3	97.6
1	13.2	2.4	40.4	100.0
none	59.6	0.0	100.0	100.0
Total	100.0%	100.0%		

*Each consecutive figure is added to the sum of the preceding ones.

Table 15

Proportion of Uncooperative Witnesses Who Answered the Indicated Number of Misdeed Questions After Their 1st Refusal*

Number of Answers	Per Cent of Witnesses } provide	Per Cent of All Answers
	%	
None	60	0
1-5	28	12
More than 5	12	88
	100%	100%
Number of Witnesses in Sample	(75)**	

*This Table is a condensation of Table 14.

**One witness, who was released from her subpoena and not questioned, has been excluded from this table so as to not spuriously increase the number of witnesses answering "none".

Table 16

Detailed Analysis of the "Responsive" Answers Given After the First Refusal

	All Hearings Except KKK	KKK Hearing	All Hearings 1946-67
	%	%	%
Affirmed Allegation	35	69	52
Denied Allegation	34	11	22
Claimed Having No Pertinent Knowledge	12	15	14
Claimed Not to Remember	19	5	12
Total Questions Answered (See Table 13)	100%	100%	100%
Number of Answers in Sample	(400)	(174)	(574)

Table 17

Time Period Referred to in Questions to which Affirmative Answers were Given

(After 1st Refusal)

	All Hearings Except KKK	KKK Hearings	All Hearings 1946-67
	%	%	%
5 Years or Older	46	2	16
Less Than 5 Years	54	98	84
	(100%)	(100%)	(100%)
Number of Affirmative Answers in Sample	(127)	(275)	(402)

ATTACHMENT A

INDIVIDUAL QUESTION SHEET

Cols.

(1-3) Item #1. ___ ___ ___ WITNESS NUMBER

(4-6) Item #2. ___ ___ ___ QUESTION NUMBER

Item #3. IF THIS IS A REPEAT QUESTION, ENTER NUMBER OF QUESTION IT REPEATS

(7-9) ___ ___ ___, AND SKIP TO ITEM #10.

Item #4. QUESTION CONCERNS: (circle each category for "Yes" or "No")

	Yes	No	
(10)	1	2	Identification, procedural
(11)	5	6	Alleged misdeeds
(12)	1	2	All other questions

(Unless an alleged misdeed, skip to Item #10)

Items #5-9 APPLY ONLY TO "ALLEGED MISDEEDS"

Item #5. DOES THE QUESTION CONTAIN AN ACCUSATION: (circle one)

	Yes	No
(13)	5	6

Item #6. WHO WAS INVOLVED IN THE ALLEGED MISDEED: (code each category)

	Yes	No	
(14)	1	2	Witness
(15)	5	6	Other person(s)
(16)	1	2	Organization(s)

Item #7. ORGANIZATION OR INSTITUTION INVOLVED: (code each category)

	Yes	No	
(17)	5	6	Communist Party
(18)	1	2	"Communist conspiracy," "cause," etc.
(19)	5	6	Foreign power
(20)	7	8	KKK, American Fascist Party, etc.
(21)	1	2	Other _____ (specify)
(22)	5	6	None involved

Item #8. ACTION INVOLVED IN ALLEGED MISDEED: (code each category)

	Yes	No	
(23)	1	2	Clearly criminal acts, such as espionage, sabotage, fraud, arson, kidnapping
(24)	5	6	Political activity, such as membership, attendance, signing, sponsoring, teaching
(25)	1	2	Knowing or associating with allegedly subversive individuals
(26)	5	6	Holding views deemed favorable to Communist cause
(27)	7	8	Holding views deemed favorable to aims of KKK, etc.
(28)	1	2	Other _____ (specify)

Cols.

Item #9. TIME OF ALLEGED MISDEED: (circle one)

(29)
1 ... Five or more years before hearing
2 ... More recent, including at time of hearing
3 ... Could refer to both
4 ... Time not specified

Items #10-12 APPLY TO ALL TYPES OF QUESTIONS, including Repeats.

Item #10. HOW DID WITNESS RESPOND TO THE QUESTION: (circle one)

(30)
1 ... Was responsive
2 ... Unresponsive statement or answer
3 ... Expressly refused
4 ... Requested repeat or clarification
5 ... Interruption, completed response not made
6 ... Other _____ (specify)

Item #11. IF WITNESS "EXPRESSLY REFUSED," WHAT REASONS DID HE GIVE: (code all categories)

	Yes	No	
(31)	5	6	5th Amendment (explicit or "self-incrimination")
(32)	1	2	1st Amendment (explicit or "freedom of speech, etc.")
(33)	5	6	Irrelevant to purposes of hearing
(34)	1	2	Referred to prior refusal
(35)	5	6	Other _____ (specify)
(36)	1	2	Gave no reasons
(37)	5	6	Not applicable (no express refusal)

Item #12. CHECK HERE IF THIS IS THE FIRST TIME WITNESS EXPRESSLY REFUSED TO ANSWER A QUESTION.

(38) 1 ... ☐

(If you check here, then transfer to WITNESS SUMMARY SHEET from ITEMS #2 and 11 of this INDIVIDUAL QUESTION)

CODER: _____

DATE: _____

ATTACHMENT B

Witness Name: _____

WITNESS SUMMARY SHEET

Cols.

(1-3) Item #1. ___ ___ ___ WITNESS NUMBER

Item #2. Hearing Date and Place:

_____

Item #3. PUBLIC SESSION: (circle one)

(4)
1 ... Yes
2 ... No
3 ... Both Public & Executive (List Question Nos. during public portion)

_____

Item #4. WAS COUNSEL FOR WITNESS PRESENT:

(5)
4 ... Yes
5 ... No
6 ... Part of the time (List Question Nos. during Counsel's presence)

_____

Item #5. ADJOURNMENT FOR OBTAINING COUNSEL:

(6)
7 ... Committee adjourned
8 ... Committee refused adjournment _____ (Page ref.)
9 ... Not applicable

Item #6. WITNESS RESPONSE: (✓ one only)

Answered all questions:

(7)
1 ... Friendly to Committee
2 ... Not friendly
3 ... Not clear whether friendly
4 ... Refused to answer one or more questions

Item #7. IF EXPRESSLY REFUSED ANY QUESTIONS:

(8-10) ___ ___ ___ Number of first question so refused (TRANSFER FROM ITEMS #12 and 2, INDIVIDUAL QUESTION SHEET)

If no express refusals, enter "0 0 0" for this Item.

Item #8. GROUNDS, if any, FOR FIRST REFUSAL: (TRANSFER FROM ITEMS #12 and #11, INDIVIDUAL QUESTION SHEET) (Code each category)

	Yes	No	
(11)	1	2	5th Amendment, "self incrimination"
(12)	3	4	1st Amendment, "free speech"
(13)	5	6	Irrelevant to purposes of hearing
(14)	7	8	Other _____ (specify)
(15)	9	0	Not applicable (no express refusal or no grounds given)

Cols.

Item #9. WAS WITNESS EVER HEARD IN PRIOR HUAC SESSION: (circle one)

(16)
1 ... Yes, public
2 ... Yes, private
3 ... Yes, both
4 ... Yes, uncertain of type
5 ... No, never heard before
6 ... No reference

Item #10. HAS WITNESS APPEARED BEFORE OTHER TRIBUNALS:

(17)
1 ... Yes _____ (specify tribunal[s] and page ref.)
2 ... No
3 ... No reference

Item #11. DID WITNESS OR COUNSEL, PRIOR TO OR DURING HEARING, REQUEST EXECUTIVE SESSION:

(18)
4 ... Yes _____ (page ref. where first noted)
5 ... No reference to request

Item #12. WAS WITNESS EXPLICITLY ENCOURAGED or GRANTED PERMISSION TO USE "SHORT FORM" REFUSAL:

(19)
6 ... Yes _____ (page ref.)
7 ... No, or not applicable

DID WITNESS COMPLAIN OF: (Items #13 - 18)

Item #13. Release of name to press prior to hearing:

(20)
8 ... Yes _____ (page ref.)
9 ... No

Item #14. Difficulty of obtaining counsel:

(21)
1 ... Yes _____ (reasons given, and page ref.)
2 ... No

Item #15. Threats of or actual personal harm:

(22)
3 ... Yes _____ (page ref.)
4 ... No

Item #16. Threats of or actual job loss:

(23)
5 ... Yes _____ (page ref.)
6 ... No

Item #17. Other threats or harm:

(24)
7 ... Yes _____ (specify & page ref.)
8 ... No

Item #18. Presence of news media at hearing

(25)
9 ... Yes _____ (page ref.)
0 ... No

(OVER)

Cols.

Item #19. DID COMMITTEE REMOVE OR RESTRAIN NEWS MEDIA:

(26) 1 ... Yes
2 ... No

Item #20. DID COMMITTEE REFLECT NEGATIVELY ON WITNESS' CHARACTER:

(27) 8 ... Yes _____ (page ref.)
9 ... No

Item #21. DID COMMITTEE THREATEN CONTEMPT ACTION AGAINST WITNESS:

(28) 3 ... Yes _____ (page ref.)
4 ... No

Item #22. DID COMMITTEE THREATEN OTHER LEGAL SANCTIONS AGAINST WITNESS:

(29) 5 ... Yes _____
(specify & page ref.)
6 ... No

Item #23. WAS COUNSEL PERMITTED TO STATE GENERAL OBJECTIONS TO HEARING:

(30) 7 ... Yes _____ (page ref. for 1st occurrence)
8 ... No _____ (page ref. for 1st occurrence)
9 ... Never tried
0 ... Counsel not present

Item #24. WAS COUNSEL PERMITTED TO STATE OBJECTIONS TO ANY QUESTIONS:

(31) 1 ... Yes _____ (page ref., 1st)
2 ... No _____ (page ref., 1st)
3 ... Never tried
4 ... Counsel not present

Item #25. WAS COUNSEL PERMITTED TO CROSS-EXAMINE:

(32) 5 ... Yes _____ (page ref., 1st time)
6 ... No _____ (page ref., 1st time)
7 ... Never tried
8 ... Counsel not present

Item #26. WAS COUNSEL PERMITTED TO MAKE OTHER OBJECTIONS TO PROCEDURE:

(33) 9 ... Yes _____ (page ref., 1st time)
0 ... No _____ (page ref., 1st time)
1 ... Never tried
2 ... Counsel not present

Cols.

Item #27. OTHER RESTRAINTS ON COUNSEL: (code each category)

Yes	No		
(34)	3	4	Told to leave _____ (page ref.)
(35)	5	6	Physically removed _____ (page ref.)
(36)	7	8	Other physical restraints _____ (page ref.)
(37)	9	0	Disbarment threat _____ (page ref.)
(38)	1	2	Other threats or warnings _____ (specify and page ref.)
(39)	3	4	No restraints & not applicable

Item #28. DID COMMITTEE EVER CAST ASPERSIONS ON COUNSEL's CHARACTER:

(40) 5 ... Yes _____ (page ref.)
6 ... No or not applicable

Item #29. WHAT REFERENCES WERE MADE, IF ANY, TO LEGISLATIVE PURPOSE OF THIS HEARING:

(41) 7 ... General reference to overall legislative purpose _____ (page ref.)
8 ... Specific reference to pending or contemplated legislation _____ (page ref.)
9 ... Both general and specific references _____ (page ref.)
0 ... None

CODER: _____

DATE: _____

ATTACHMENT C

Coding Instructions (Excerpt)

If The Question Is A Repeat:

a) Enter the number of the question it repeats, in Item #3.

b) Skip to Item #10.

Thus, we analyze (code) the nature of a question only the *first* time it is asked, but we analyze the *response* to a question *each* time it is asked. (See Items #10-12, re: responses.)

Item #4: Type of question:

Identification questions are those dealing with such information about the witness as his name, age, address,, employment.

Procedural questions involve such things as asking the witness if he will be seated, whether counsel is present, etc.

Alleged misdeed questions may concern:

1. Clearly criminal conduct, such as espionage, sabotage, fraud, arson, kidnapping, etc.

2. Any actions, beliefs, circumstances or associations which involve Communist governments, organizations or persons, or organizations or persons *clearly deemed* by the Committee to be related either directly or indirectly to Communist governments, organizations or persons. It may also encompass similar relationships to such organizations as the Ku Klux Klan.

This classification as an alleged misdeed may appear from the question itself, or may be drawn from the context of the entire testimony. For example, such designation could come through Committee references to allegations made by friendly witnesses.

Example:

Chrmn: "Mr. Smith has said that the Jefferson School is a Communist front. Is it true that you are the Director of that School?"

But if there is the slightest doubt that the question concerns an alleged misdeed, *do not code it as such.* For example, do not assume that the mere mention of an organization signifies a 'misdeed' is involved, unless the context makes it quite clear.

If it is not entirely clear that the question refers to an alleged misdeed, do not code it as a misdeed, but rather code it under "All other questions".

Do not consider the following as questions concerning 'misdeeds':

Questions about witness' refusal to answer: e.g. "Are you refusing to answer?" "Do you think it would incriminate you to answer?"

Questions concerning knowledge of others *where no misdeed is clearly alleged.* "Do you know Joe Smith?" If the Committee has not indicated that such knowledge or association constitutes a 'misdeed', this is to be coded under "All other questions". However, if later

sections of the transcript describe this knowledge or association as clearly constituting a 'misdeed', then this question will have to be recoded by you, and noted on the Referral sheet for Dr. Zeisel.

If You Have Coded Item #4 As Procedural", "Identification", or "All Other", Skip To Item #10.

Items #5 through 9 apply only to questions concerning alleged misdeeds.

Item #5: Does the question contain an accusation:

Example:

"Isn't it true that you have been a member of the Communist Party for 10 years?" This question contains an accusation, but:
"Have you been a member of the Communist Party?", although it qualifies as a question concerning a misdeed, is not a question containing an accusation, and should be coded as "No", in Item #5.

Item #6: Who is involved in alleged misdeed:

Examples:

"Are you a member of the CP?" Code as "Yes" for "Witness" and "Organization", but code "No" for "Other Person(s)".

"Is Joe Simmons a member of the CP?" should be coded a "Yes:" for both "Other Person(s)" and "Organizations", but "No" for "Witness".

"Are you and Joe Simmons members of the same CP cell?" is coded "Yes" in all three categories.

Note:

When evaluating questions asked of friendly witnesses who were acting as undercover agents, membership or activities in the organization under surveillance are not to be considered "misdeeds" *of the witness,* though they may concern alleged misdeeds of an organization and/or of other persons.

Item #7: Organization or institution involved in alleged misdeed:

The question may name the organization or institution involved. If not, code under "None involved", and code "No" for the other categories of this Item.

If the question names the "Communist Party", "Communist conspiracy", "cause", or "Foreign power", code "Yes" in the appropriate category and "No" in those not named. If the KKK or American Fascist party is involved, code "Yes" in that category.